

COMPILATION
OF
STANDING ORDERS OF GOVERNMENT
IN THE
REVENUE DEPARTMENT.

VOLUME III.

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LAND RECORDS AND AGRICULTURE.

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LAND RECORDS AND AGRICULTURE.**PART I.—RECRUITMENT.**

1. The Secretary of State has no objection to act in special cases in the spirit of the following proposals made by the Government of India in their Despatch No. 10, dated 1st September 1883; but he does not consider it advisable to lay down any such general rule as is contained in the beginning of clause 2, or to make provision other than with reference to the probable requirements of the Agricultural Departments. In other words, while refusing to assent to the suggestion as to the service generally, he is willing to grant facilities for the study of agriculture in individual cases, so as to provide a body of trained officers from whom, as occasion required, the staff of the Agricultural Departments might be recruited. The Local Governments should submit special recommendations whenever they deem it for the good of the service that any particular officer should avail himself of the proposed opportunities for agricultural study in Europe. Such recommendation should be made only with reference to the prospective demands of the Agricultural Department, and the Secretary of State will then deal with each case on its merits:—

- (1) That the rule, which restricts furlough to officers who have served at least eight years in India, be so far relaxed as to allow a Local Government to select, for the contemplated training, any officer of not less than five years' active service who is willing to avail himself of furlough. It seems desirable that the training should be given at an early period of an officer's career, in order that he may have fuller opportunities of turning it to practical advantage hereafter in India. If the selection be confined to officers of eight years' standing and over, the field of choice is reduced, and the selected officers may not improbably profit less from the training than they would have done had it been given at an earlier age.
- (2) That each Local Government should be authorized to select one officer every two years and the minor administrations one every four or five years, within the prescribed limits of service. The officers so selected would be considered to be placed on furlough to England on ordinary furlough allowances and would be required to proceed to some suitable college in England, and there go through a complete course of study in agriculture. As the course at such institutions appears usually to last for two years, it would be necessary to grant furlough to this amount to every selected officer, even though it might not be wholly due to him under the ordinary rules, and even though the officer may not have rendered three years' continuous service according to the definition of the phrase "continuous service" in the Codes of the Financial Department. We propose that any officer who succeeds in obtaining a diploma or equivalent certificate of competence should be re-imbursed his college fees and be allowed to count one year of the course as service for pension. We would not grant these concessions to any officer who fails to acquit himself with credit at the institution to which he is deputed. The selection in India would of course be confined to officers who have already shown practical application for and interest in agriculture, and the training would naturally qualify them for em-
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ployment in the Agricultural Department. But we would have it clearly understood that the attainment of a diploma or certificate would not give the holder any specific claim to employment of this description on his return to India, as it would be undesirable to fetter in this way the discretion of the Local Governments. Whether or not the officer be eventually employed as a Director or Assistant Director of Agriculture, the training would generally be useful to him in any executive capacity, and to the State it would be well worth the moderate inducements which we propose to offer.

(S. of S. Nos. 137 (Pub.), dated 13th December 1883, and 53 (Rev.), dated 10th July 1884, and G. I., R. & A., Nos. 38-A., dated 13th March 1884, and 100-A., dated 27th August 1884; *vide* G. Rs. Nos. 2778, dated 2nd April 1884, and 7425, dated 17th September 1884.)

2. Great care should be exercised in the selection of officers to undergo an agricultural training in England. No officer should be selected who is not considered to have a special aptitude for the duties required in the Agricultural Department.

The necessity for confining the number of recommendations within reasonable limits should also not be overlooked. The object of the training is to provide a body of trained officers from whom, as occasion may require, the staff of the Agricultural Department may be recruited.

No officer who does not complete the agricultural course and receive a diploma will be entitled to the privileges offered; and it is not contemplated that every officer after obtaining the diploma of Cirencester College should on his return to India be enabled to claim, as a right, an appointment in the Agricultural Department.

(S. of S. No. 53 (Rev.), dated 10th July 1884, and G. I., R. & A., No. 100-A, dated 27th August 1884; *vide* G. R. No. 7425, dated 17th September 1884.)

3. The diploma of the Downton College of Agriculture may be accepted as of equal value to that of the Royal Agricultural College at Cirencester for the purpose of Government patronage in regard to Indian agricultural students. (G. I., R. & A., No. 44A-91-2, dated 7th May 1888; *vide* G. R. No. 3802, dated 11th June 1888.)

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PART II.—SALARY, FUNCTIONS AND DUTIES
OF THE DIRECTOR.

1. The office of Director* of Agriculture is one of observation and experiment, and it is not expedient to begin by attempting to lay down exact rules and forms to regulate the duties. Everything bearing on agricultural prosperity and decadence is within his province, and subject matter for his suggestions. But it is necessary to define the position of the Director relatively to other officers and departments and to state in general terms what duties Government expect him to perform.

The preparation of agricultural statistics will be an object of the Director's special care.

The Director should subject the reported results of crop experiments to careful analysis and criticism, himself conducting test experiments as far as he is able.

Another branch of duty which the Agricultural Department will undertake is connected with the revision of survey settlements, and consists in maintaining the statistical record which is placed before the authority entrusted with the revision of rates of assessment.

The general scope of the Director's duties is described as follows in the office note appended to Government Resolution No. 4576 of June 16th, 1883 :—

“The justification of an appointment of a Director of Agriculture is mainly to be deduced from the present rapid extension in India of railways and irrigational canals, working together as promoters of higher agriculture and trade in produce. It is to be feared that little good is to be done by the application of scientific agriculture to large parts of the uplands of India such as the plain of the Deccan. It can hardly be but that for at least a long time to come the cultivation of these poorer lands will give small and uncertain profits, and that those who till them will be poor and in debt. The improvable part of the public estate is the richer lands and especially those where a good soil can be made to produce valuable exportable commodities with certainty of a regular profit by the aid of perennial irrigation. These lands are, or soon will be, in the hands of a more substantial class of farmers, who are able to work them by the aid of some capital, and are capable of appreciating scientific methods of adding to their returns.

“Now it cannot be doubted that there is one side of public business which district officers are unable, from their other manifold duties, to carry on in a very thorough, sagacious and systematic way. This is the improvement of the State land rents by all those expedients which a liberal and judicious landlord adopts for the improvement of his own estates. The changes and transfers in appointments alone are sufficient to prevent district officers from applying thorough knowledge to the land. It seems quite possible that at some future time this branch of the administration may be entrusted to a distinct set of public officers. But this will be for a distant epoch of material development. Still there appears to be a good deal coming under this head on which even one officer

* Under Government Resolutions Nos. 6090, dated 9th September 1887, and 7548, dated 7th November 1887, the designation has been altered to “Director of Land Records and Agriculture.”

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giving his whole time and thought to it may be engaged with advantage.

“Such an officer should closely associate himself with the better class of farmers, and study their aspirations and needs. He will supply them with information and materials, direct them to improvements, help them to obtain easily such capital as they want, place them in communication with merchants at the ports and large towns, advertise the products which they have to offer for disposal and so on. He should specially take under his observation the better tracts which are under canals and accessible by railways and particularly the rich lands adjacent to large towns. He will utilise the experimental farms which it is part of the scheme to maintain and increase. He will also communicate with merchants and exporters and assist any enterprizes in the way of farms and manufactories in the districts. He should also note the condition of the agriculturists in various tracts, the bearing of the laws and executive regulations upon them, any special causes of depression, peculiar customs or prejudices. He should study the nature of the produce exported from each district, where it finds a market, in what quantity and what difficulties it contends with from defective communications, exactions in Native States, &c.

“Such an officer should, if he uses his time well, soon gain the confidence of a class of enterprising farmers whose interests he would take care of, and teach them to make full use of the advantages which Government so liberally offers. He would recommend special cases for specially favourable terms.

“He would not clash with other officers and departments because his sphere would be quite distinct from those of the Collector or Irrigational Engineer, but he would assist them all and make use of their local knowledge and influence.

“All agricultural statistics would of course be his special affair. There is an excellent base of such statistics in the village forms in Bombay, but they are not fully utilised from want of time and attention. The yearly estimates of crops and returns of land under each are still imperfect.

“It is not necessary to amplify further in this note. But it will be essential that such an officer, if appointed, should have a set of definite instructions as to what he is expected to do. For this purpose he should be supplied with a list of heads on which Government will look to him for information and under each of which he would report annually what he has done. He might begin by putting together a statistical sketch from his own point of view of each district, mapping it out with tracts according to productive capacity, irrigational facilities, &c., and indicating the special tracts which he expects to be the objects of his particular attention. These sketches or outlines may be printed for the use of the special officer and of the Revenue Secretary, and subsequent detailed reports can refer to the sketch to which they belong.

“The detailed reports would be close studies of special tracts, their peculiarities and wants, and suggestions how to meet them.

“The general report might give the observations of the year under the following heads:—

1. Season and harvest.
2. Communications. Use of railways, roads for transport of produce; any new facilities in the year; routes principally followed; any obstructions met with; needs of additional railways and roads.
3. Canals. Use made of them; products raised; any complaints or petitions as to management and supply; feelings of the people for or against them; possible additions.
4. Wells and other means of irrigation.
5. Takavi; loans taken up; where they would be useful; difficulties felt by agriculturists.

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Stock. Horse and cattle shows; sufficiency of plough-cattle in districts under observation; suggestions for improvements; experiments.

7. Trade in agricultural produce. Course taken; increase or decrease; means of encouragement.

8. Introduction of European capital and enterprise in manufacture or farming.

9. Notes on agricultural implements, seeds, manure, &c.

10. Model Farms.

11. Crop experiments.

12. Agricultural statistics. Area under cultivation with various crops.

"The report will be made on such date as to supply a section of the General Administration Report.

"This officer should also send to Government a monthly season report, from June onward, of the cultivation and prospects of the harvest.

"The report of the Model Farms would of course pass through his hands and he would be in constant communication with their superintendents.

"The agricultural returns for the Commissioner's revenue reports would be prepared under his care."

(G. R. No. 5542, dated 26th July 1883.)

2. The Land Revenue Department proper is under Sections 17, 109, 110 of

Government Resolution No. 6403, dated 22nd September 1888.

Government of India letter No. 91, dated 4th February 1889.

Bombay Government letter No. 4101, dated 6th June 1889.

Government of India letter No. 550, dated 3rd August 1889.

the Land Revenue Code responsible for the land record, and the district and divisional establishments sanctioned under the orders marginally noted are entirely subordinate to the Commissioners and Collectors. The position of the Superintendents of Land Records and Agriculture is that of Assistants to the Commissioners to whose orders they will be generally subject,* and at whose head-quarters they will reside. They are not Assistants to the Director of Land Records and Agriculture. They should be gazetted *ex-officio* Assistant to the Collectors in each district of the Division to which they are attached, and when working in those districts they will work as Assistants to the Collectors concerned. Their duties and the functions of the Director, so far as his connection with the land records and his subordination to the Divisional Commissioners are concerned, are summarised below.

(2). *The Director of Land Records and Agriculture*

Government of India letter No. 550, dated 3rd August 1889.

should test the competence of the subordinate officials to perform the duties required of them: their proper

*The orders regarding the position of Superintendents as Assistants to the Divisional Commissioners having been overlooked in several instances, attention was drawn to them by G. Rs., F. D. Nos. 4478, 4691 and 4708, dated, respectively, 12th, 28th and 29th November 1892, and it was directed that on matters connected with the district and divisional establishments of the Department of Land Records and Agriculture the Commissioners and not the Director should be addressed.

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observance of the rules laid down for their guidance : he should undertake the inspection and, where necessary, the revision of maps : frame rules subject to the approval of the Divisional Commissioners and final sanction of Government for the guidance of district establishments : he should examine the work of the district establishments, and report to the Collectors any defects, errors and shortcomings.

As regards his duties outside these, the following orders have been laid down :—

“ Mr. Ozanne should be considered under the immediate orders of the Revenue Department and should correspond with the Secretary to Government in that Department. He should forward his letters to Government either through the Divisional Commissioner or the Survey Commissioner, as may be appropriate in each case. He is at liberty to correspond direct with Collectors, officers of Survey and others on matters relating to his province, keeping however in view the supervisory authority of the Commissioners when any change of practice is proposed.”

Statistical returns of agriculture required by the Secretary of State annually are compiled by the Director from the information furnished by the Collectors and Commissioners and are submitted by him direct to Government under the orders noted in the margin : while the annual *returns and reports of the rail and land-borne traffic* are submitted by him direct to Government with his review thereof, under the authority quoted in the margin.

He further prepares periodical crop forecasts which are submitted by him direct to the Government of India, copies being furnished to this Government under the orders mentioned marginally.

Under the orders marginally quoted he has the entire control in *account matters* relating to experimental farms, and corresponds direct with Government about them. His annual reports on crop experiments are submitted through the Commissioners. As regards special agricultural experiments undertaken from time to time, he corresponds direct with Government.

The orders noted in the margin entrust the Director with the control of the executive branch of the Civil Veterinary Department which includes (a) the Horse-breeding Department, (b) District Veterinary establishments,

Government Resolution No. 8914, dated 25th November 1889, approved by Government of India letter No. 189 C. I., dated 30th January 1890.

Government Resolution No. 5542, dated 26th July 1888.

Government Resolution No. 9706, dated 9th December 1884.

Government Resolution No. 1887, dated 5th March 1885.

Government Resolution No. 2220, dated 16th March 1885.

Government Resolution No. 6386, dated 9th August 1884.

Government Resolution, Financial Department, No. 2710, dated 5th October 1887.

Government Resolution No. 6287, dated 5th September 1890.

Government Resolution No. 2011, dated 18th March 1891.

comprising officers in charge of veterinary dispensaries and itinerating Veterinary officers. With reference to the former he corresponds direct with Government, but as regards the latter the following are the orders of Government:—“The veterinary graduates in charge of dispensaries and the itinerating veterinary assistants should be immediately under the orders of the District Committees, consisting of the Collector of the district and representatives of all contributing bodies; they should report to the District Committees, who will correspond with the Director of Land Records and Agriculture, and the latter officer with the Commissioners, and the Collectors and Commissioners and the Director of Land Records and Agriculture should notice the operations of the District Veterinary establishments and their results in their annual administration reports.”

Government Resolution No. 2011, dated 18th March 1891, paragraph 7.

Government of India Circular No. 25—1, dated 10th September 1891, and Bombay Government Resolution No. 7191, dated 19th October 1891.

The Government of India have laid down the following rules under this head in their Resolution

noted in the margin:—

I.—If in any Province the system under which information supplied periodically in normal times regarding prices, rainfall, state of the crops and agricultural stocks, and other circumstances from which the approach of scarcity and agricultural distress can be detected is, or is considered, imperfect, it shall be the duty of the Director of the Department of Land Records and Agriculture to submit to the Local Government and Administration to which he is subordinate suggestions for the improvement of the system.—Any suggestions submitted under this rule with the orders passed thereon shall be briefly noticed in the annual report of the Department.

II.—Whatever system be established for the normal supply of information of the character described in Rule I, it shall be the duty of the Director of the department and his assistants to ascertain by periodical inspection that the system is in normal times being efficiently and properly worked in each district, and to report to the district officer and any other authorities, whom the Local Government may direct, any defects in its working.

III.—It shall be the duty of the Director to compile and collate periodically in an intelligent form the facts and statistics which are derived from the system established for the provision of the information of the character above described. For this purpose he should have full access under such rules as may be laid down by the Local Government to any statistical and agricultural returns and reports which are submitted by district officers to the higher Revenue authorities.

IV.—It shall be his duty to prepare from time to time after an examination both of settlement reports and other similar sources of information which may be available, as well as of the information periodically collated in his own office, a statement of the agricultural circumstances of each tract of the Province and of the measures, if any, which are in his opinion required to improve the agricultural efficiency thereof as prescribed in paragraphs 8, 9 and 10 of the Government of India Resolution No. 6-340-50-G., dated 8th December 1881.

Paragraph 6 of the same Resolution as explaining and elucidating the object of the rule is entered here:—

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“6. It will be observed that the duties thus laid down for observance by the special departments are, while in consonance with those prescribed in the Resolution under which these departments were constituted, in no respect affected by the occurrence of famine or scarcity. The duties are such as must be continuously performed in normal times, and the object of them is the establishment and maintenance of a system under which the responsible authorities will receive timely warning of the approach of famine or scarcity. In more than one of the replies received from Local Governments on this subject the Resolution of 19th December 1889 appears to have been read as implying that the Local Government was to look to the special departments and not to district officers for the indications of approaching scarcity. This is very far from the intention of the Government of India. In the 6th paragraph of that Resolution it was explained that the Resolution of 1881, under which these departments were created, required them ‘to organize and maintain a system under which the responsible authorities should be kept continuously and automatically provided with prompt intelligence of agricultural circumstances.’ No suggestion was made, either in the Resolution of 1881 or of 1889, that intelligence should be supplied by district subordinates otherwise than to district officers, or to the Local Governments otherwise than by district officers through the usual channels. The Government of India demand only that the special department should be utilised to examine and report on the efficiency of the working machinery, not that the department should itself work the machinery. This policy is clearly understood and carried out in many provinces in which it is now fully realized that inspection by the officers of an expert department is necessary for the efficient maintenance of maps and records, and that with few exceptions the reports and suggestions of the inspecting officers are of material service to those district officers to whom they are made, and secure as a general result that maps and records are kept up to a uniform standard throughout the province. More than this the Government of India do not require.”

The concluding sentences of the above paragraph confirm the views expressed by this Government regarding the position and functions of the Director of Land Records and Agriculture in previous paragraphs.

The attention of the Director of Land Records and Agriculture should be called to what is at the present time the most important part of his work : the special inspection of the work of the Circle Inspectors, and the systematising of the arrangements for keeping up the land records, and for recording and supplying accurate and intelligible statistics regarding prices, wages, rainfall, state of the crops, and agricultural stock, &c., especially in the Southern Division where the newly sanctioned staff is now working. It is desirable that he should now devote increased attention to perfecting arrangements connected with the maintenance of the land record, and the collection of agricultural and economical statistics.

(3). *The duties of Superintendents of Land Records and Agriculture or Assistant Commissioners* are the collation and preparation of the record in connection with the revision settlements as they fall due; the testing of survey work done by districts surveyors ; the acting as professional referee

Government Resolution No. 6403, dated 22nd September 1888.

Bombay Government letter No. 4101, dated 6th June 1889, to Government of India.

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to the Collector on such subjects; the compilation under the supervision of the Divisional Commissioners of statistics received from the Collectors and the forwarding of these to the Director; aiding Assistant Collectors and Mámíatdárs in the inspection of all village records and returns except those connected with the collection of land revenue; preserving the uniformity in system of correcting

survey records by constant and thorough examination; and hereafter when the Survey Department has done its work, testing classification where the District Inspector is not a

classer; signing ákárbands; and preparing proposals for the revision of rates. They are further to assist the Director of Land Records and Agriculture in the inspection and test of village statistics and forms, supervise the compilation of statistics for revisions, and aid the Director of Land Records and Agriculture in his duty of making a detailed analysis of agricultural tracts specially liable to famine.

(4). In this connection the Governor in Council desires to repeat the directions passed from time to time regarding the duties of Collectors and Assistant Collectors as to the inspections to be made by them, so that they may understand that the establishment of the system of inspection by the Divisional and Circle Inspectors does not release them from their ordinary duties of examination and inspection. The earlier orders were passed when it was proposed and intended to place the Inspectors under the Director of Land Records and Agriculture, and it is evident that those officers being under

Government Resolution No. 2557, dated 24th March 1884, paragraph 6.

later orders subordinate to the Land Revenue authorities, the directions issued have now even greater importance attached to them. The first of these is as follows:—

“6. Indeed, the question of the discipline and control of the new establishment requires very careful thought and organization. The intention is to entertain a body of selected men for certain duties connected with the land administration and under the control of the Director of Agriculture. These duties are a part of the local revenue business, though they are to be entrusted to special officials that they may be performed with particular skill and efficiency. These officials are placed under the orders of the Director because they are to deal with matters specially within his cognisance. The Director will therefore formulate their duties and supervise their performance of them. But on the considerations stated in the previous paragraph, it must not follow that the new establishment is withdrawn from all affinity to the local revenue offices, and that the Circle Inspectors are to acknowledge no official allegiance to the Mámíatdár. It is clear that if three or four Circle Inspectors are resident in a táluka with no personal supervision by higher authority expect a periodical visit from the Assistant District Inspector, they will virtually be under very little control, and are not likely to work with energy and precision. The Mámíatdár therefore and *à fortiori* the Assistant Collector, should carefully watch the performance of their duty by the Circle Inspectors, though of course they will not

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alter the instructions of the Director. Again, the Circle Inspectors will be an authority immediately over the village accountants and in this relation must bear due regard to the authority of the Mámílatdár, that the village officers may not be embarrassed by having two masters. Moreover it is not by any means intended that the Mámílatdárs and Assistant Collectors should be relieved of any part of the duty which they now perform in personally testing the preparation of statistical records in the villages and making inspections of crops and boundary marks. And the Collectors and their Assistants should on no account allow themselves to think that as certain operations have been placed under the control of a distinct department they are not any further concerned with them. All the matters which fall within the province of the Director of Agriculture should be matters of personal interest to the local Revenue officers. The Director and the Circle Inspectors are to supply them with improved means of knowing their districts."

It was repeated to the Government of India in reporting further on the subject that "the same Resolution which gave the first practical effect to the scheme also conveyed (paragraph 6) the decision of Government that the revised staff was not to be separated from the Revenue establishments, or removed from subordination to the Mámílatdár, nor was their creation and connection with the Director to absolve the Mámílatdár or Assistant Collector or Collector from any of the duties hitherto attached to their offices in connection with the statistical records, or any other matter which falls within the province of the Director of Agriculture ;"

and finally in reviewing the annual report of the Director of Land Records and Agriculture for 1887-88, the following orders were passed emphasizing those previously issued :—

Government Resolution No. 2825, dated 13th April 1889.

"The first part of this report, which contains a variety of interesting matter and reflects credit on the Acting Director, is as usual devoted to a detailed account of the work of the Circle Inspectors employed in Dhárwár and Bijápur. The Governor in Council is of opinion that their field-work—other than measurement—which as a check on village officers is specially important, was decidedly insufficient, and in this connection it is observed that Mr. Muir-Mackenzie admits the 'intense repugnance to field-work' exhibited by these officials. They evidently require close and systematic supervision, such discipline in fact as some of them were accustomed to while in the Survey Department, but the supervision actually exercised over their work by their immediate superiors appears to have been unsatisfactory in Bijápur and hardly sufficient in Dhárwár. Government have under consideration a scheme for the entire re-organization of this branch of the department, but until such re-organization is effected it is essential that sub-divisional officers in Dhárwár and Bijápur should carefully test the work of these inspectors ; and indeed their boundary-mark inspection might with advantage be confined to such a test, the results of which should be communicated from time to time to the Agricultural Department. The attention of the Collectors of these districts should be drawn to the fact that no such communications were made in the year under report."

(G. R. No. 528, dated 23rd January 1892.)

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3. Circumstances having occurred during the last few years which indicate that in more than one Province the functions of the Department of Land Records and Agriculture as a Department of Land Records have not been fully understood, the Government of India desire that the following explanation of their views and intentions in connection with this subject should be communicated to all Local Governments and Administrations.

(2). The formation of the Departments was first required by the Resolution of the 8th December 1881, in which the general scheme under which effect was to be given to the recommendations of the Famine Commissioners was laid down. In the 7th paragraph it was advised that the new Departments should be in some form connected with settlement administration with the view of maintaining up to date the land records upon which settlements were made. But it was expressly stated that—

“It is neither necessary nor advisable that the new Department should either exercise independent authority or should interfere with the responsibility of the local officials who are at present charged with the duty of maintaining any system of agricultural records and observation. The Department may undoubtedly be utilized by the governing authorities in assisting them to control and maintain any organization required for the continuous supply of agricultural information, yet its chief duty will be to deduce from the facts and figures thus supplied those conclusions or suggestions which the Famine Commissioners have shown to be necessary to the administration of a Province.”

(3). The Government of India apprehend that, notwithstanding the clear injunction that no interfering authority was to be exercised by the new Department, yet that the use of the word ‘control’ may have led to a misapprehension on the subject. Their intention was that the Department should control the scheme under which land records are maintained but not the establishments or agency responsible for maintaining them. When, however, the Departments were first organized, the Directors were in some provinces allowed to assume considerable authority over the district establishments, and they have even been permitted by some recent Provincial rules to require the punishment or dismissal of officials on the land-record staff. In such cases it has become necessary for the Government of India to request the alteration of the rules with the object of securing to the district and divisional authorities the full executive control over the establishments with which it was not intended to interfere.

(4). The functions of the Director in connection with land-records may be classed under three heads—

- I.—Organization.
- II.—Inspection.
- III.—Collation of results.

Under the first head it is his duty to bring before the superior revenue authorities proposals for the

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maintainance of maps and records in the most efficient and economical manner. The main objects with which land records, including maps, are required to be kept up to date are—

- (a) to simplify and cheapen periodical settlement operations ;
- (b) to provide a record-of-rights for the protection of all who hold interests in land ;
- (c) to reduce, simplify and cheapen litigation in the Revenue and Civil Courts ; and
- (d) to provide statistics necessary for sound-administration in all matters connected with the land.

It is the duty of the Director both to advise the superior revenue authorities under what arrangements these objects can best be attained or in what manner the land records establishments should be organized, trained and tested so as to ensure the required results; and to point out from time to time any defects in the system which may have already been adopted.

(5). Under the second head, inspection, it is the duty of the director to inspect the land-records staff and their work in each district, and to bring to the notice of the district officer any irregularities in practice, or any shortcomings on the part of the officials whose work has been inspected. In some Provinces in which there is a Divisional as well as a District officer it has been found a convenient practice for the Director to submit his inspection notes to the latter officer, who forwards them to the Commissioner, with any orders which he, the District officer, may pass thereon. The Director himself is debarred from issuing any orders other than such verbal instructions and explanations on technical matters as he may communicate to the officials whose work he inspects.

Similar functions would be exercised by any Assistants to the Director. The Government of India, however, would prefer that functions of this kind should be assigned to those officials only who are of sufficient rank and status to be recognized as acting on behalf of the Director rather than as his subordinates, and that other Inspecting officers, if above the position of District inspectors, should be subordinate to the Commissioner or other controlling revenue authority rather than to the Director himself. It is apprehended that otherwise the authority of Divisional Officers may be weakened, and that proper relations between the Director and District officers may be disturbed.

(6). Under the third head little explanation of the duties of the Director is needed. The main objects, which the collection of agricultural statistics was intended by the Famine Commissioners to secure, must be prominently held in view. These are fully stated in the 8th, 9th and 10th paragraphs of the Resolution of 1881, and have in subsequent Resolutions and correspondence been summed up

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under the term 'district analysis.' In this as in other branches of their work no control can be exercised by the Director over the District and Divisional staff, beyond drawing the attention of the authorities to any errors or shortcomings in the statistics and returns supplied to his office in accordance with rules sanctioned by the Local Government or to any defects in agricultural circumstances and conditions which may appear to call for preventive or remedial action. His chief duty is to see that full effect is given to the instructions of Her Majesty's Secretary of State quoted in the 1st paragraph of the Resolution, *viz.* :—

"To secure the more complete systematic ascertaining and rendering available of the statistics of vital, agricultural, and economic facts for every part of India, in order that Government and its officers may always be in possession of an adequate knowledge of the actual condition of the country its population and resources."

(7). Nothing in this Resolution is intended to affect the duties or position of the Director of Land Records if in addition to the office of Directorship he is entrusted with the control of settlements in the separate capacity of Settlement Commissioner.

(G. I., R. & A., No. 15-342, dated the 26th October 1893; *vide* G. R. No. 9007, dated the 8th December 1893.*)

4. The Director of Agriculture should be furnished with copies of all the various Resolutions referred to below under heads I—V in the Revenue and General Departments :

Revenue :—I. Topographical, and Geological Surveys;

II. Seasons, weather, crop experiments, cultivation, fibres;

III. Forest Settlement and Demarcation;

IV. Revenue Survey and Settlement; and

V. Annual Reports of the several Revenue Departments.

General.—I. Manufactures and Trade;

II. Mills and Factories;

III. Exhibitions;

IV. Cattle Breeding; and

V. Annual Administration Reports;

(G. R. No. 6693, dated the 18th August 1885.)

5. The Government of India have with the sanction of the Secretary of State promulgated the following rules for regulating the salary of Directors

* Under this Resolution the Government of India were informed by the Government of Bombay that the principles followed in this Presidency in the matter of the control of the establishments employed in the Land Records Department and the position of the Director of Land Records in that Department were in accord with those laid down in the Resolution of the Government of India, No. 15—342, dated the 26th October 1893, and that with the exception of the Director's office staff no establishments employed in the Land Records Department were placed under the direct orders of that officer.

PART II.] [LAND RECORDS AND AGRICULTURE.

of Land Records and Agriculture in the several Provinces:—

(1) The Director will draw the pay substantive or officiating of his contemporary, *i.e.*, the officer next below him in the regular line.

(2) He will receive Rs. 250 a month special allowance, provided that

(3) The maximum salary drawn, including pay and special allowance, will not exceed Rs. 1,800.

(4) No monthly travelling allowance will be permitted. Special travelling allowance under the ordinary rules will be granted, the daily rate being fixed with reference to the circumstances of the province concerned.

(G. I., R. & A., Nos. 69-51-6-R., dated the 12th October 1889, and 165, 170-C. I., dated the 25th January 1890; *vide* G. R. No. 1388, dated the 20th February 1890.)

6. Provision should be made in the budget whenever necessary for the purchase of live-stock for Experimental Farms, and the Director of Land Records and Agriculture is authorized to incur expenditure within the limit of such provision. (G. R. No. 8080, dated the 15th November 1890.)

7. The Director of Land Records and Agriculture is permitted to subscribe for a copy of "The Indian Textile Journal" for the use of his office. (G. R. No. 1340, dated the 19th February 1891.)

8. The Director of Land Records and Agriculture is authorized to correspond direct with the Agricultural Chemist to the Government of India on all technical matters connected with the work of that office. (G. R. No. 2003, dated the 17th March 1893).

LAND RECORDS AND AGRICULTURE.] [PART III.**PART III.—SUPERINTENDENTS OF LAND RECORDS
AND AGRICULTURE AND DISTRICT AND CIRCLE
INSPECTORS.**

A separate compilation of rules and standing orders relating to the duties and supervision of Land Records and Agricultural establishments has been issued, and the rules and standing orders under this heading are omitted from this compilation.

PART IV.—REPORTS AND RETURNS.

1. The weekly reports on the state of the weather and crops should be telegraphed to the Revenue and Agricultural Department and not to the Home Department of the Government of India, the telegrams being despatched to the abbreviated address of "Revenue." (G. I., R. & A., No. 1-26., dated 14th July 1881.)

2. It should be impressed upon District officers that it is not sufficient to report correctly the state of the country in the immediate neighbourhood of head-quarter stations, but that a weather and crop telegram ought to indicate, as far as possible, the agricultural condition of a district as a whole. (G. I., H., R. & A., No. 11-503, dated 8th November 1880; *vide* G. R. No. 6196, dated 23rd idem.)

3. It is unnecessary to publish in the *Gazette of India* detailed information regarding the weather and agriculture of individual districts. Weekly reports on the season and prospects of the crops in each district of Madras, Bombay, Bengal, the North-Western Provinces and Oudh, the Punjab, the Central Provinces, Assam, Burma and Mysore are published in local Gazettes, and, being available in this form to the public and the Government of India, do not need repetition in the *Gazette of India*. In future, therefore, Local Governments and Administrations should cease to telegraph to the Government of India intelligence regarding separate districts, and should confine their telegraphic communications to a full and clear summary of those facts only which have an important bearing on the character of the season and the crops of each province as a whole. The summaries should present a sufficiently complete and accurate picture of the position in the week under report, to enable the Government of India to form a true opinion on the agricultural situation and prospects of each Province; and they should be so drawn up as to admit of their being published in the *Gazette of India* without revision or further reference to the Provincial authorities. They should indicate the general character of the rainfall of the week and the tracts in which the total rainfall of the season has been insufficient; the progress of agricultural operations; the state of the standing crops and the prospects and probable outturn of the harvests. They should contain also a brief account of any serious damage done to crops by insects, blights, hailstorms, floods or other natural calamities, and should notice the condition of agricultural stock, the failure of pasturage or fodder, and marked fluctuations in the prices of food-grains. In times of scarcity the areas affected, the number of people under relief and the state of food stocks should be regularly reported. The condition of the opium and other crops of commercial importance should be specially noticed. These instructions indicate generally the information which the Government of India call for in the weekly summaries,

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preclude Local Governments from adding any further particulars of interest and importance which may be considered necessary. Intelligent compilation is especially demanded. Instances have occurred in which returns have been submitted from certain districts without regard to facts, and have been permitted to repeat stereotyped and inaccurate phrases week after week. It is, therefore, desired that, whether or not the weekly returns can be submitted through the Department of Land Records and Agriculture, the question should be considered of placing upon that Department the responsibility of seeing that an uniform and well-regulated system of recording the facts above indicated is maintained. His Excellency in Council also rules that the use of local vernacular terms should, as unsuited to reports intended for general information, be entirely avoided. District reports may continue to be published in local Gazettes. Their main object is to show from week to week, in a brief and succinct form, the actual conditions and prospects of agriculture in each district. They are not intended, therefore, to contain a notice of any facts which have no connection with, or bearing on, agricultural circumstances and prospects. The Government of India are specially desirous that strict attention should be given to the remarks and instructions in this paragraph. Separate copies of all district reports, whether weekly, monthly or half-yearly, published in the Gazettes of Local Governments, should be posted regularly to the Revenue and Agricultural Department of the Government of India, for information and record. Outbreaks of fever or of even cattle-disease, unless of dimensions sufficiently large to threaten the progress of agricultural operations, as was the case for instance in many parts of India after the famine in 1878-79, need not be noticed, and it is for similar reasons unnecessary to report the occurrence of small-pox or cholera except in the very rare cases where the mortality and prostration caused by these diseases are likely to affect the agricultural population to a serious extent. (G. I., R. & A., Nos. 59-A-124-1, dated 5th October 1887, and 64-A-124-2, dated 11th October 1887; *vide* G. R. No. 7541, dated 5th November 1887.)

4. The information contained in the weekly season telegraphic reports submitted to the Government of India should be general in character and confined more nearly to a description of the state of the crops and agricultural condition of the Presidency. The circumstances of individual districts or talukas should be noticed as sparingly as possible, these details being reserved for publication in the Local Gazette. References to rainfall should also be curtailed, as the information of this description reaches the Government of India from other sources. (G. I., R. & A., No. 660-A-4-5, dated 4th October 1889; *vide* G. R. No. 7862, dated 18th

necessary in accordance with the orders of the Government of India that the weekly sum-

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mary of weather and agricultural reports should be despatched to them not later than 6 P. M. every Wednesday. In order to do this the various district reports made up as far as possible to Tuesday evening in each week must be delivered at the Secretariat in Bombay by Wednesday afternoon at the latest. To ensure their timely delivery they must, during such part of the season as the Collector is absent from head-quarters, be prepared by the Huzúr Deputy Collector from the reports submitted to him by the Mámílatdárs and Maháلكaris. When the Collector is at head-quarters he must personally supervise the preparation and submit the weekly summary of the reports to Government.

The instructions of the Government of India do not appear to have been properly attended to, the consequence being that the greatest difficulty is found in preparing the weekly summary required by the Government of India. The attention of all Collectors is called to the orders issued on the subject. With a view to avoid misunderstanding as to what is required and what is not, the appended note giving definite particulars has been prepared. The various reports will be published in the *Government Gazette*. It will be understood that these reports relate purely to ordinary years and seasons, and that in times of scarcity or famine special reports as prescribed in the Famine Relief Code, Bombay Presidency, will have to be submitted.

(Note referred to above.)

The following particulars should be given in the Collector's weekly summary:—

Rainfall during week.—If none has fallen, no mention need be made. The character of the fall should be noticed, whether it was excessive, normal, or deficient, general in the district or partial. The fall (a) for the week, (b) for the season, *during the monsoon* should be given.

(2) The tracts, if any, in which the fall is insufficient should be specified.

Note.—In the weekly season reports submitted during the monsoon, Collectors should specify the weekly rainfall at the head-quarter station in addition to the maximum and minimum falls in the district and the totals for the season from the 1st of June for the head-quarter station and for the stations which have received the maximum and minimum falls up to date.

The total rainfall for the season is to be given in the weekly reports only during the monsoon and not during the fair season. (G. R. Nos. 1341-Famine, dated 19th June 1897, and 527-Famine, dated 31st August 1898.)

(3) Progress of agricultural operations and state of the standing crops, whether kharif or rabi.

(4) Probable outturn of harvest, whether kharif or rabi, each being separately noted. When the anna valuation has once been given, it need not be repeated unless marked changes are found. This information to be submitted in the first and third weeks of each month, special notice being made

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of crops of commercial importance such as cotton, wheat, linseed, and in Baroda of opium.

Note.—The “probable outturn” reports should be discontinued throughout the Presidency in the months of May and June. By the end of July a forecast of the crop, as probably a deficient one or the reverse, can generally, if not always, be formed. (G. R. No. 5073, dated 24th July 1891.)

(5) The condition of agricultural stock.

(6) *Marked* fluctuations in the price of food-grains.

Note.—Actual prices should be quoted only when the variation is considerable, say one Indian seer per rupee, and the price should usually be given only for the head-quarter town in seers per rupee and to the nearest seer. (G. R. No. 1341-Famine, dated 19th June 1897.)

(7) If serious damage has been done to any crop by unforeseen natural calamity, it should be reported.

(8) If fodder or pasturage prospects are bad, they should be reported; if normal they need not be noticed.

(9) Epidemic or epizootic disease should be reported only if of so severe a character that it interferes with the progress of agricultural operations.

(10) The standing instructions as to date of despatch to Government of these reports remain in force.

(11) The use of such phrases as “prospects unchanged,” “same as last week” and the like should be avoided. Local vernacular terms should not be used. (G. R. No. 794, dated 3rd February 1888.)

The report from the Thar and Parkar District should be submitted to reach the Secretariat before 12 noon on every Wednesday. It should comprise information up to Saturday of the previous week, with any later particulars that can be given up to Tuesday evening when it is transmitted. (G. R. No. 8088, dated 25th November 1881.)

The weekly reports on the condition of the season and crops from Thana and other districts situated as Thana is as regards facilities for postal communication with Bombay should be sent by post. The reports from other districts should ordinarily be transmitted by telegraph as ‘deferred’ messages. The telegrams should reach the Secretariat at the latest in the afternoon of every Wednesday. They should therefore, as a rule, be sent to the Telegraph office on Tuesday evening marked as ‘deferred’. Whenever this cannot be done owing to unavoidable circumstances, and the telegrams have to be sent on Wednesdays, they should be marked as ‘urgent’, but in any case they should continue to comprise information up to the evening of every Tuesday. (G. C. No. 249, dated 14th January 1882, and G. R., F. D., No. 1947, dated 7th July 1885.)

6. The form noted below should be adopted in the preparation of the weekly season reports for the

Ahmedabad, Kaira, Broach, Surat, Thana, Násik, Khándesh, Poona and Sholápur Districts from which the reports are sent by post. The form is based on the instructions circulated with Government Resolution No. 794, dated 3rd February 1888, which should be strictly followed in the preparation of the reports for the districts named above as well as the other districts from which the reports are sent by telegram.

The Superintendent, Government Central Press, should keep copies of the form in stock to meet the requirements of the officers concerned.

Season Report of the		District for the week ending				1899.	
AMOUNT AND CHARACTER OF RAINFALL.		Tracts in which rainfall is insufficient.	Progress of agricultural operations and state of standing crops.	Prospects and probable out-turn of crops, especially of those of commercial importance.	Condition of fodder supply and agricultural stock.	Marked fluctuations in prices of food-grains.	Epidemic or epizootic disease interfering with agricultural operations.
For week.	For season.						

No. OF 189 .

Forwarded to Government in the Revenue Department.

Collector.

(G. Rs. Nos. 6834, dated 27th September 1890, and 1493, dated 24th February 1891.)

7. In the weekly reports on the state of the season and prospects of the crops a concise description of the crops should be given in lieu of annual estimates which in consequence of doubts about the "standard" are found to be frequently misleading. (G. C. No. 1709, dated 6th March 1891.)

8. The appearance and movements of locusts should be noticed in the weekly weather and crop reports in such additional detail as may be convenient. It is not desired, however, that the weekly telegraphic reports which are submitted to the Government of India should contain more detail than at present.

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Copies of the weekly weather and crop reports, as published in the Provincial Gazettes, containing references to locusts, and of any special reports which are made by District officers and others to Local Governments, should be forwarded direct to the Trustees of the Indian Museum for transmission to the officer of the Indian Museum entrusted with the entomological work. (G. I., R. & A., No. 151-159-C., dated 18th January 1890; *vide* G.R. No. 1159, dated 12th February 1890.)

9. The order contained in the Revenue and Agricultural Department Circular No. 64-4-48 A., dated 28th September 1889, deprecating unnecessary allusion in the weekly weather and crop reports to sporadic cases of cattle disease, was not intended to exclude a report on the state of the fodder and water-supply and its effect on agricultural stock. Such information affords a most important illustration of agricultural prospects. Where this is not already done, information may be included in the weekly reports as to the condition of cattle and the supply of fodder and water. (G. I., R. & A., No. 18-1, dated 20th July 1891; *vide* G. R. No. 5579, dated 14th August 1891.)

10. The Superintendent, Government Central Press, should supply the Meteorological Reporter for Western India with a copy of the telegraphic weather and crop reports which are published weekly in the *Bombay Government Gazette*. The Meteorological Reporter should also be supplied with copies of reports of damage caused by heavy rains, floods, high winds or tides which may be received in the Revenue, General, Political, Marine and Public Works Departments. (G. R. No. 6504, dated 13th August 1884.)

11. Mámlatdárs and officers in charge of stations who send periodical postcards to the Director of Land Records and Agriculture under the orders contained in Government Resolution, General Department, No. 1788, dated 18th May 1886, should send him during the monsoon also special postcards after a break* of over seven days' duration whenever (1) a fall of over 50 cents takes place in one day or (2) a fall of one inch or more occurs in not more than three consecutive days. In either case if rain is falling when the special card is sent, the fact should be notified. No further intimation will be required up to the time of despatching the usual weekly message. In this manner the Director will know of the continuance of scarcity in any district or part of a district up to within four or at most five days before any given date for the most remote stations in the Presidency. (G. R. No. 6814, dated 12th October 1888.)

12. For the purposes of the weekly telegraphic report, Mámlatdárs should make reports similar to

* A break means a period on every day of which the rain is less than 50 cents, or in which the rainfall during any three consecutive days is less than one inch.

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those directed in the foregoing Resolution to the Collector by special card for all rainfall, of which the information will reach the Collector before Tuesday evening. This arrangement will enable Collectors to include the latest information available in their weekly telegraphic reports. (G. R. No. 5443, dated 10th August 1891.)

13. The Annual Report of the Agricultural Department should be divided into the following heads:—

I. Organization and maintenance of village records.

II. Analysis of districts with reference to security from famine.

III. System of collection of revenue and rental in precarious tracts.

IV. Measures of protection, including—

(1) Fodder reserves and arboriculture.

(2) Extension of communications.

(3) Irrigation.

V. Agricultural experiments, including farms.

VI. Cattle-breeding and veterinary establishments.

VII. Agricultural and fiscal statistics.

VIII. Trade and trade statistics.

The subject of communications would be primarily considered under Head II, and any remarks under Head IV (2) would ordinarily be confined to improvements effected, or likely to be effected, in the agricultural condition of a district by communications opened during the year under report.

In any case in which the subject for which a heading is provided is not one dealt with by the Agricultural Department, and also as regards any other questions which are dealt with in the Revenue Administration Report, it will be sufficient to treat them by reference in the Agricultural Department Report, noting where the information required will be found.

(G. I., R. & A., No. 54-A., dated 28th April 1884; *vide* G. R. No. 4333, dated 29th May 1884.)

14. It was intended when the skeleton heads of the report of the Department of Land Records and Agriculture were prescribed in Government of India Circular Resolution No. 54-A., dated 28th April 1884, that the report itself should not be more than an historical abstract of the main events and results of the twelve months' working of the department, and it was assumed that either questions admitting of discussion or details of experiments and agricultural investigations would be dealt with in separate departmental papers or reviews. The reporting work of a department of Land Records and Agriculture may, without conflicting with the views expressed in previous Circulars and Resolutions of

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the Government of India, be divided under three heads:—

- (1) Reports of a technical character.
- (2) Reports on which the orders of the Local Government are required.
- (3) Historical abstract of the year's operations.

In the first class would be included reports from experimental farms with the orders of the Director thereon, or tabular statements showing results of experiments; accounts of trials with new implements and machines and the like. Reports of this kind would under the instructions conveyed in Government of India Circular Resolution No. 143½A-77-4 of the 28th December 1885 be communicated direct by the department, without delay, not only to the Government of India, but also to all Provincial Agricultural Departments for early information. It is for this reason that they should include no matter upon which the orders of the Bombay Government are required, and that any subject requiring the instructions of His Excellency the Governor in Council should be separately submitted to the Bombay Government. The Government of India themselves having already received the technical reports and statistical results of agricultural experiments does not require in the Annual Report more than an historical summary of the administrative action of the department under each part into which the report is divided and of any useful results of a positive character which may have been obtained in the field of agricultural experiment and to which, from the interest which may attach to them, it may be considered desirable to attract special notice in the annual report.

(G. I., R. & A., No. 407-41-3-A., dated 25th May 1887; *vide* G. R. No. 4079, dated 4th July 1887.)

15. The steps taken by the Agricultural Department under each Local Government for securing the more complete analysis of the rural economy and condition of the province, and the progress made towards its completion, should be reported in the periodical reports of that Department. (G. I. R. & A., No. 75-G., dated 2nd October 1883; *vide* G. R. No. 8107, dated 3rd November 1883.)

16. The Director of Land Records and Agriculture should enter in his annual reports a clear and concise resumé of all the reports on cattle disease received by him. (G. Rs. Nos. 5487, dated 18th August 1887, and 5220, dated 19th July 1893.)

17. The subject of the fertilization of the soil by the application of bone-manure should receive the serious attention of the Agricultural Department. The question of introducing cheap bone-crushers and other aids to the preparation of the manure is of primary importance in connection with the preservation of one of the valuable manu-

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rial resources of the country. Experiments as to the effect of bone-manure on various crops under different conditions are also essential to enable the Directors of Agricultural Departments to determine under what circumstances bones can be most usefully employed in India. Any action which it may be found possible to take to promote the utilization of bone-manure in India by experiment or otherwise should be specially noticed in the annual reports of the Agricultural Department. (G. I., R. & A., No. 12-96-1A., dated 11th June 1891; *vide* G. R. No. 4718, dated 11th July 1891.)

18. Collectors should forward Agricultural Statistics punctually to the Director of Land Records and Agriculture for inclusion in his Annual Administration Report and supply that officer with explanations regarding variations in statistics. (G. R. No. 2825, dated 13th April 1889.)

19. Requisitions for inquiry into insect pests may be sent to the Superintendent of the Indian Museum by the Director of the Agricultural Department of the province to whom reference should in the first place be made by the District or Divisional Officer who is desirous of having an enquiry instituted. The Director should include in his annual report a brief account of any proceedings taken in this direction during the year. (G. I., R. & A., No. 62-20-102-A., dated 20th September 1889; *vide* G. R. No. 7590, dated 9th October 1889.)

20. The Director should in future reports supply information showing what percentage of the crop, waste and boundary mark inspection done by the total number of Kulkarnis in each district has been tested, in the year, by the Circle Inspector Staff, and what percentage of the work of the latter has been tested by the supervising officers of the Agricultural Department and, if possible, also by those of the Revenue Department. Government desire merely to satisfy themselves generally that the tests have been sufficient in quantity to be of real use as a check on the perfunctory performance of uncongenial duties, and provided this information is furnished, the Director need not, unless there is any special reason for doing so, include in his report detailed statistics of the work which are of value only to the officers of the districts concerned. (G. R. No. 1474, dated 22nd February 1890.)

21. Collectors should communicate their remarks on the subject of the organization and maintenance of village records to the Director of Land Records and Agriculture for incorporation in his report. It should be understood, however, that the Collectors are to continue to enter the subject in their own annual administration reports, but the Commissioner's detailed review thereof will be found in submitting the Director's report. (G. R. No. 6123, dated 28th July 1892.)

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22. The record of the work of Superintendents which is directly connected with that of the agricultural staff, should be included in the annual report of the Agricultural Department. (G. R. No. 3169, dated 2nd May 1893.)

23. The Director of Land Records and Agriculture should furnish in his annual reports a statement giving under Head III.—Collection of Revenue and Rental in Precarious Tracts—a brief notice of the ordinary processes of revenue collection in tracts so classed, as well as of any special measures which it may have been necessary to take under the Famine Relief Code. (G. R. No. 10074, dated 23rd December 1892.)

24. With a view to the bringing under review at one time of the whole land administration of the Presidency exclusive of Sind, the annual report of the Department of Land Records and Agriculture will not in future be reviewed separately either by the Commissioners or by Government, but when it is circulated to the public, copies will be sent to the Commissioners, who should then draw up their jamábandi reports with the report of Collectors as well as the report of the Department of Land Records and Agriculture before them. The report of the Department of Land Records and Agriculture will then be printed with the jamábandi reports, being treated as an appendix thereto, and be reviewed by Government together with the jamábandi reports. This review, with the compilation, will then be submitted to the Government of India. (G. Rs. Nos. 7542, dated 14th October 1893, and 8791, dated 30th November 1893.)

25. The Collectors should furnish at the end of December of each year a memorandum containing information concerning weather and crops to the Director of Land Records and Agriculture in order to enable him to include an accurate and complete account of each district in his annual report. (G. R. No. 8255, dated 2nd December 1887.)

26. A special paragraph should be devoted to the subject of the maintenance of traverse survey marks in the annual report of the Department of Land Records. (G. L., R. & A., No. 510-19-71, dated 10th March 1892; *vide* G. R. No. 3327, dated 11th April 1892.)

27. The rule* laid down by the Government of India that "no official letters to Her Majesty's Government or to the Government of India, and no Resolution or other official paper that would in ordinary course be reported to either of those authorities should be made public by Local Governments, until the interval has elapsed which is required for their transmission to the superior authorities" should be observed in the case of the Annual Report of the Director of Land Records and Agriculture. (G. R. No. 189, dated 12th January 1886.)

* *Vide* G. of I. No. 19-861, dated 6th May 1878.

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28. Copies of all reports relating to vegetable products published by the Government of Bombay and by the Agricultural or Horticultural Societies in the Bombay Presidency should be sent through the India Office for transmission to the Royal Gardens at Kew (S. of S., No. 1 (Rev.), dated 15th January 1880; *vide* G. R., No. 1292, dated 11th March 1880.)

29. Copies of all reports relating to vegetable products or the material resources of the country should, as soon as they are published, be sent direct to the India Office superscribed "for the Royal Gardens, Kew." The following is an exemplar list of the kind of reports, &c., which might be sent in addition to any special publications issued by Local Governments. The reports should be regularly forwarded to avoid any ground of complaint on the part of the Kew authorities:—

1. Annual Reports of the Department of Land Records and Agriculture.
2. Annual Reports on Botanical and Public Gardens.
3. Annual Forest Administration Reports.
4. Annual Reports on Cinchona Plantations.
5. Annual Museum Reports.
6. Annual and other Reports by Botanical Officers.
7. Annual Tea and Coffee Reports.
8. Arboricultural Report.
9. Crop Experiment Report.
10. Experimental and Model Farm Reports.
11. Notes, Bulletins and Selections on Vegetable and Economic Products.
12. Provincial Agricultural Ledger Series.
13. Annual Reports on Inland Trade.

(G. I., R. & A., Nos. 37-A., dated 16th August 1882, 55-A., dated 30th April 1884, 16-33, dated 25th April 1893; *vide* G. Rs. Nos. 4589, dated 7th June 1884, and 5666, dated 5th August 1893.)

30. Copies of all reports and papers on the economic products of India published by Government should be systematically sent to the Secretary of State for record in the India Office, and for transmission to the Kew Museum (S. of S. No. 23 Rev., dated 10th March 1887; *vide* G. I., R. & A., No. 26-72-3A., dated 5th May 1887, and G. R. No. 3353, dated 30th idem.)

31. Whenever publications on agricultural subjects are communicated to the Government of India for information, it should be stated in the forwarding letter whether they have been or are about to be duly circulated to other provinces. (G. I., R. & A., No. 51-A., dated 24th April 1884; *vide* G. R. No. 3916, dated 15th May 1884.)

32. Her Majesty's Secretary of State in his despatch No. 7, dated 21st January 1892, has drawn atten-

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tion to the great inconvenience due to the occasional employment in botanic-economic reports published under the authority of Government, of absolute scientific names of plants, and desired the uniform use in all such official reports of the nomenclature established by Sir Joseph Hooker's 'Flora of British India' and the official 'Dictionary of the Economic Products of India.' Considerable inconvenience has also been caused to the Government of India by the use in official reports generally of vernacular and unscientific names in describing or referring to natural and economic products. His Excellency the Governor General in Council is, therefore, pleased to issue instructions that economic products, whether plants or not, should be described by the scientific name adopted in the official Directory, either used alone or written in brackets after any English or vernacular name which may be employed. The nomenclature of economic plants dealt with in the Dictionary of Economic Products is practically based on the 'Flora of British India' to which no further reference need be made in such cases. In the case of plants not being economic products, and not, therefore, included in the Economic Dictionary, the Flora itself should be consulted; but if this work is not available, or difficulty is experienced in identification, reference may be made to the Agricultural Department or to the botanical authority of the province. (G. I., R. & A., No. 654-89, dated 14th March 1892; *vide* G. R. No. 3264, dated 7th April 1892).

33. It is of importance that facts and statistics regarding any special subject should be presented in a form in which they can be easily brought together and ledgered under an appropriate head. This object can be best fulfilled by the establishment of some arrangements under which useful information of sufficient value to be recorded for purposes of future reference should be published in separate sheets, pamphlets or reports, which may be from whatever province received, bound up or otherwise gathered together in appropriate ledgers. The appended instructions for the maintenance of a uniform series of agricultural ledgers have accordingly been formulated. While it is necessary that the system of recording information which it is desirable to circulate throughout India should be uniform, this scheme is not intended in any way to interfere with the continuance or establishment of any scheme of publication that may be considered desirable for provincial purposes:—

- (1) Any interesting or instructive papers, notes, and statistics on subjects dealt with by Departments of Land Records and Agriculture should be printed separately for distribution to all Agricultural Departments, or to any other Departments, officials, or individuals who may wish to have them for incorporation in ledgers.
- (2) A series of agricultural ledgers will be maintained, which will be uniform in all offices,

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whether of the provinces or of the Government of India.

- (3) A classification of subjects for which it is considered that separate ledgers might be maintained is given in the appendix. Uniformity in sub-heads is not a matter of importance.
- (4) Any information, whether included in an official report, or not, considered to be of sufficient general interest to justify its inclusion in the agricultural ledgers, should be printed separately so as to admit of its being filed under the appropriate ledger heading.
- (5) When such information is included in a report, it may be perhaps conveniently printed off from the type of the report before the type is broken up.
- (6) As far as possible, each note or set of statistics should refer to one subject only.
- (7) The ledger series should be printed on the same size of paper and when possible in similar type, and, as a rule, on one side of the sheet; (this is not essential in the case of lengthy articles).
- (8) The ledger series will, for purposes of convenient reference, be uniformly numbered in all Provincial and Imperial offices, and the serial number to be assigned to each pamphlet or paper will be arranged by the Government of India. For this purpose the subject of any note which it is proposed to print should be reported to the Reporter on Economic Products, Indian Museum, Calcutta.
- (9) All subjects which can be brought under economic products will be referred to the serial numbers in the official "Dictionary of Economic Products."
- (10) Notes of only local interest will not be brought into the Imperial series.
- (11) Lengthy pamphlets or papers containing a material proportion of unimportant matter should not, as a rule, be issued *in extenso*. Abstracts of them including, if necessary, brief extracts will suffice, and be more likely to receive perusal.
- (12) In some cases it will be sufficient merely to place on record in a ledger sheet references to interesting or useful papers of which it is desirable not to lose sight with brief paragraphs indicating their character.
- (13) A brief introductory preface should precede any paper or extract explaining the points to which it is desired to invite attention.
- (14) An index of the numbers of the ledger series issued during each year will be prepared by the Government of India, and circulated for general use.
- (15) All correspondence connected with the agricultural ledger series will be conducted, on

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behalf of the Government of India, by the Reporter on Economic Products (Indian Museum, Calcutta).

APPENDIX.

No.	Main Head.	Examples of Sub-heads.
1	Agricultural Economics ...	Advances; Assessments; Debt; Prices; Rents; Tenures; Transfers; Wages.
2	Agricultural Education ...	Forms; Object Lessons; Primers; Schools.
3	Agricultural Entomology and Insect Pests.	Insecticides; Locusts; Sugarcane Borers.
4	Agricultural Implements ...	Ploughs; Sugar mills.
5	Agricultural Improvement ...	Farm experiments; Seed Selection.
6	Arboriculture	Fruit trees; Vine cultivation.
7	Dairying	Cheese-making; Cream-separators.
8	Fertilisers	Bat Guano; Bones; Coprolites.
9	Internal Trade and Communication.	Railways; Wheat adulteration.
10	Irrigation	Canals; Water-lifts; Wells.
11	Plant diseases	Potato disease; Rusts and Mildews.
12	Soils	Reclamation of Salt plains; Reh; Soil classification and Survey.
13	Veterinary	Anthrax; Cattle-breeding; Horse-breeding; Prevention of disease.
14	Products*	1. Food for human use. 2. Special famine foods. 3. Fodders. 4. Stimulants; Beverages; Narcotics. 5. Oil-seeds; Oils; Soap and Perfumery. 6. Drugs; Medicines; Chemicals. 7. Gums and Resins. 8. Dyes; Tans; Mordants; Pigments and Paints. 9. Fibres and Fibrous Plants. 10. Hides; Leather; Horns. 11. Canes; Bamboos and Grasses. 12. Timbers. 13. Minerals. 14. Domestic Products.

* The classification adopted is that which has been followed at Exhibitions and at the Imperial Institute.

(G. I., R. & A., Nos. 31-52, dated 19th August 1892, and 17-51, dated 4th May 1893; *vide* G. Rs. Nos. 7579, dated 24th September 1892, and 4203, dated 9th July 1893.)

PART V.—FORECASTS OF CROPS.

1. The Government of India have decided that, for the present at least, three memoranda on the Indian ^{wheat crop}_{oil-seeds crop} shall be published by it during each season. The first of these will be a rough account of the state of the crop, and will not, except in cases in which details can be supplied without trouble by Local Governments, contain information as to area. This statement will be published immediately before the close of the calendar year. The second memorandum, which will be issued about the 15th March, will give as accurate information as may then be procurable regarding both the estimated area and the state of the crop. In the latter half of May the third memorandum will be published, and will contain revised and fuller information on the points mentioned in the second statement. In order to admit of the punctual preparation of these memoranda the Government of India desire that the necessary data may be supplied in time to reach them* at the latest on the 20th December, the 1st March and the 15th May, respectively. It will be convenient that the first two reports, which should give the latest information available at the time of their submission, should be made by telegraph. Fullness of detail being of more importance in regard to the third memorandum, the reports on which it is to be based should be forwarded in writing. The value of the reports on the wheat crop will be much enhanced by a general statement regarding the character and prospects of the other food crops, as this will enable persons interested to draw their own conclusions as to the amount likely to be available for exportation. (G. I., R. & A., No. 20-4-82-A., dated 3rd March 1886; *vide* G. R. No. 2324, dated 25th *idem*.)

2. As regards the wheat reports, the dates prescribed have necessarily been chosen with reference to the requirements of the Punjab, the province in which the wheat crop comes latest to maturity. There is no objection to the Director of the Bombay Agricultural Department submitting his reports and placing them at the disposal of the mercantile community as soon as he can do so, though they can only be embodied in the Imperial forecasts at a somewhat later date. (G. I., R. & A., No. 554-A.-4-169, dated 9th June 1886; *vide* G. R. No. 4585, dated 26th *idem*.)

3. The following general instructions should be observed in the preparation and publication of seasonal reports on the oil-seed crops.

The crops which will be regularly reported on in future are linseed, rapeseed, and sesamum. But if

* Under later instructions (*vide* G. I., R. & A., No. 15-52-6, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1895) these returns are to be forwarded to the Director-General of Statistics.

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in any province other oil-seeds of commercial importance are grown, their inclusion in the prescribed reports is unobjectionable, provided that they are separately shown. The report on linseed and rapeseed now incorporated with the wheat forecasts, should be separately published; the two crops should also be kept distinct and not treated together under the general head of oil-seeds.

For Bombay the Department of Land Records and Agriculture will submit reports on rapeseed and linseed in accordance with the instructions previously issued in the Circular of 3rd March 1886.

As regards sesamum, the Government of India desire to be furnished with three reports * similar in character to those already prepared for linseed and rapeseed from the provinces noted on the margin. The first report will give, in general terms, a character of the season and the state of the crops; the second will contain a fuller report on prospects and a rough estimate of area; and the third complete statistics of area and probable outturn. The dates which have been suggested, by the various provincial authorities, for the submission of the reports on sesamum, range from 1st August to 15th January, and the 15th August, 15th October, and 1st January will probably be found generally suitable, except in Madras, where the existing dates will be maintained.

A special difficulty in estimating area and outturn arises in the case of oil-seeds owing to the almost universal practice of growing them as mixed crops. In some provinces the areas of the several crops composing a mixture are already recorded separately, in others the areas under mixed crops are recorded in a lump for each field, and standard formulæ have been framed after experiment and local enquiry for calculating area and outturn of the crops composing the mixture. In such provinces there will be no difficulty in furnishing the necessary figures. But in the provinces where neither of these systems is in force, there may be difficulty in giving the areas under oil-seed grown as a mixed crop. In these cases the Government of India will not object to the statistics and information in the forecasts being restricted to the area on which the crop is grown unmixed, leaving the area and outturn of the mixed area to be roughly estimated at such proportion to the unmixed area as may have been determined by special enquiry. But apart from the requirements of forecast reports, the Government of India consider that in provinces where the mixed area of any crop is an important factor in the total production, measures should be taken in the interests of the accuracy of agricultural statistics at

* Under later instructions (*vide* G. I., R. & A., No. 15-52-6, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1895) these reports are to be furnished to the Director-General of Statistics.

large to ensure a record of such areas, and the framing of careful standards for reducing them to an equivalent in unmixed areas.

(G. I., R. & A., No. 347-357 C., dated 13th March 1890; *vide* G. R. No. 2904, dated 29th April 1890.)

4. In circular dated the 3rd March 1886, (No. 20-4-82), the Governments of Bombay, North-Western Provinces and Oudh and Punjab, and the Administrations of the Central Provinces and Berár, were desired to furnish the Government of India with two reports on the cotton crop, *viz.*, the first on the 15th July, showing the character of the crop, and the second on the 15th October, giving the fullest details available as to both the area and prospects of the crop. These dates having been found unsuited to the Bombay Presidency, they were altered to 10th September and 10th December for the early districts, and 10th October and 10th February for the late districts.

The expediency of publishing more frequent reports on the Indian cotton crop during the period the crop is on the ground, has recently been made the subject of a representation to the Secretary of State on behalf of merchants in the United Kingdom interested in the cotton trade. In forwarding this representation to the Government of India, His Lordship desired that the question should be considered whether monthly abstracts might not be published for the whole of India, giving estimated figures of area and probable outturn for each province, with totals for the whole of India.

The Government of India consider that some attempt should certainly be made to meet the wish of the commercial community in this country, as well as in the United Kingdom, for earlier and fuller information, and have arrived at the conclusion that no great disturbance of existing arrangements would be caused by the publication of four two-monthly reports, beginning with the period when the greater portion of the early crop has been sown and ending with the arrival of the season for the harvesting of the late crops. For provinces in which only the early variety is cultivated, three reports will suffice, but a fourth is necessary where the late varieties are also grown.

The Government of India have accordingly resolved that four general summaries shall be published, on the 20th August, 15th October, 15th December and 15th February. The first summary will contain an estimate of the area sown with the early crop, as compared with the normal area on that date, with remarks as to the general condition and prospects of sowings; the second, a corrected and completed estimate of the area of the early crop, and the sowings to date of the late crop, together with a report on the condition and prospects of both crops. The third summary will deal fully with the area and outturn of the early crop, and give further

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information regarding the condition and area of the late crops. The fourth and last summary will review the harvest of both early and late crops.

To admit of the punctual compilation of these summaries, the following separate reports* are required from the provinces on the dates mentioned :—

August 15th.—First report, early crops, from Madras, Bombay, North-Western Provinces and Oudh, Punjáb, Central Provinces and Berár.

October 10th.—Second report, early crops, from Madras, Bombay, North-Western Provinces and Oudh, Punjáb, Central Provinces and Berár. First report, late crops, from Madras and Bombay.

December 10th.—Final report, early crops, from Madras, Bombay, North-Western Provinces and Oudh, Punjáb, Central Provinces and Berár. Second report, late crops, from Madras and Bombay.

February 10th.—Final report, late crops, Madras and Bombay.

The Directors of Local Departments of Land Records and Agriculture should use every effort to make these forecasts trustworthy sources of information to the public, and in the few instances where the revised dates entail the submission of earlier reports than are at present supplied, to secure their punctual issue. The dates have been determined with reference to the demand for early and reliable information, and to the necessity for uniformity in the period of reporting in order to allow of the publication of general summaries. For no province, however, has an earlier date been fixed than has been found possible by experience in other provinces similarly circumstanced.

The Government of India also desire that great care may be taken in every case to express the outturn in terms of "cleaned cotton," that is, cotton with the seeds extracted. For the return of areas over which cotton is sown as a mixed crop, attention should be had to the instructions furnished in Government of India, Revenue and Agricultural Department, Resolution No. 347-357 C—Agriculture of 13th March 1890, regarding the returns of mixed oil-seed crops. Figures which are estimates should invariably be shown as such, and the calculations of outturn should be systematically verified by the statistics of consumption and trade.

(G. I., R. & A., No. 358-369 C—Agriculture, dated 13th March 1890; *vide* G. R. No. 2904, dated 29th April 1890.)

5. All Political Officers attached to Native States should be impressed with the necessity of causing proper arrangements to be made for the supply to

* Under later instructions (*vide* G. I., R. & A., No. 15-52-8, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1896) these reports are to be forwarded to the Director-General of Statistics.

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the Director of Agriculture in due time of the required statistics regarding their States for embodiment in his general crop telegrams. (G. R. No. 1816, dated 3rd March 1885.)

6. The Director of Land Records and Agriculture should state in the crop forecasts submitted by him whether or not figures for the Baroda State are included. (G. I., R. & A., No. 808-4-B-5-A., dated 27th April 1891; *vide* G. R. No. 3309, dated 13th May 1891.)

7. Crop forecasts should be prepared in all provinces on the system under which an average crop is denoted by one rupee. (G. I., R. & A., No. 129-A-7-197, dated 6th November 1885; *vide* G. R. No. 6685, dated 21st September 1886.)

8. The Government of India have decided that in future it shall be left to Local Governments and Administrations to fix the scale of notation to be used in forecasts of crops for themselves in accordance with local conditions, the object being to secure that the returns are in terms of a normal crop. To secure conformity with local usage, it may even be necessary to use different scales in different parts of the same province. This being so, it is obvious that the anna standard will no longer possess any fixed or uniform value, and will, therefore, be unsuitable for use in any published forecasts. In all future forecasts that may be furnished to the Government of India or the Director-General of Statistics the use of the anna notation may be entirely discontinued, and the American notation used in its stead, 100 being taken to represent a normal crop, and the estimated outturn being stated as a percentage of that crop. Indeed, there is reason to believe that, apart from the formal periodical forecasts, all estimates of crop-outturn furnished to the Government of India—such, for instance, as were reported in connection with the famine of 1896-97—are subject to the same uncertainty of standard; and in future, whenever outturn is mentioned in such cases, either the American notation may be used, or, if the anna scale is preferred, the standard on which it is based may be stated. A brief parenthesis (so many annas = normal) is quite sufficient.

It will be noticed that in the above instructions the word 'normal' has been substituted for 'average.' The normal crop has been defined as 'that crop which past experience has shown to be the most generally recurring crop in a series of years; the typical crop of the local area, the crop which the cultivator has a right (as it were) to expect, and with which he is (or should be) content, while if he gets more he has reason to rejoice, and if less he has reason to complain.' This will not necessarily correspond with the average crop of a series of years, which is indeed an arithmetical abstraction and may possibly never occur. For it is obvious that in a tract in which the agricultural standard is low and the harvest precarious, the yield of the year will fall

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below the normal, as above defined, more often and more largely than will be the case in a highly cultivated and well-irrigated tract, and that in the former case the average will probably be considerably below the normal, while in the latter it will probably approximate very closely to it. (G. I., R. & A., No. 9-27-4, dated 23rd October 1897; *vide* G. R. No. 725, dated 1st February 1898.)

In accordance with the foregoing instructions of the Government of India, 12 annas should be taken as representing a normal crop in all reports and returns submitted in future, and the attention of all officers should particularly be drawn to the distinction between a normal and an average crop. The necessary calculations for showing the estimates in the American notation will be made in the office of the Survey Commissioner and Director of Land Records and Agriculture while compiling the Presidency forecast reports for the Government of India. (G. R. No. 725, dated 1st February 1898.)

9. As it is desirable that the commercial community should obtain as early information as possible regarding the condition and prospects of the crops, the Agricultural Department should in future send a copy of the crop forecast to the principal newspapers in the province at the same time that they are telegraphed or forwarded by post to the Government of India.* The Agricultural Department should, however, not publish actual figures if estimated figures have previously been published by the Government of India. (G. I., R. & A., No. 25-A-5-2, dated 4th May 1887; *vide* G. R. No. 4159, dated 6th July 1887.)

10. The utility of forecasts is enhanced in proportion to the promptitude with which they reach the persons interested in the information which they contain. Moreover, where facilities for printing exist in the provinces, no appreciable advantage is gained from the printing and distribution of forecasts by the Government of India, while the delay due to the time occupied in transmission would be saved by direct distribution. In future, therefore, the direct distribution at present effected by the Local Agricultural Departments under the orders contained in Circular No. 25-A of 4th May 1887, should be extended so as to include the entire distribution now made by the Government of India.

The forecasts now reported* to the Government of India by telegram will continue to be so reported in order that the general summaries prepared and published by the Imperial Department of Revenue and Agriculture may be issued with punctuality. Other forecasts may be submitted either in manuscript or in print, provided they reach the Government of India by the prescribed dates.

It would be convenient if the Provincial reports and Imperial summaries could be uniform in size

* Under later instructions (*vide* G. I., R. & A., No. 15-52-6, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1895) these forecasts of crops are to be reported to the Director-General of Statistics.

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and type, and the form employed by the Government of India should as far as possible be adopted.

(G. I., R. & A., No. 2-5, dated 11th February 1892; *vide* G. R. No. 1521, dated 1st March 1892.)

11. The Government of India desire that in the final reports on the wheat crop information may be furnished in connection with the prices and general condition of the supply of food-grains in the Province. The main questions are—

(a) Whether the produce of the year's supply of food-grains has been much above or below the average;

(b) Whether the food stocks of former harvests are plentiful or not;

(c) Whether prices of food-grains generally have ruled higher or lower than usual; and

(d) What have been the causes which have caused increase or decrease of exports of wheat and how far has the movement been influenced by a scarcity or otherwise of food-grains.

(G. I., R. & A., No. 8-5-4-A., dated 30th March 1888; *vide* G. R. No. 2311, dated 17th April 1888.)

12. The District officers in Sind should state, in their forecast returns for wheat and cotton, the estimated yield per acre *in pounds* to enable the Director of Land Records and Agriculture to give complete statistics showing the outturn of the crops for the whole of the Presidency as desired by the Government of India. (G. R. No. 6354, dated 28th August 1889.)

13. In the forecasts of cotton crop published by Provincial Governments, the yield should be shown in bales of 400 pounds of clean cotton. (G. I., R. & A., No. 10-3 L-18-A., dated 4th June 1890; *vide* G. R. No. 4561, dated 30th *idem*.)

14. The first or preliminary forecasts of the cotton and oil-seed crops and the first and second reports on the prospects of the wheat crop should be transmitted to the Government * of India by telegraph. (G. I., R. & A., Nos. 24-3 L-28-A., dated 15th August 1890, and 1683-3 L-37-A., dated 29th October 1890; *vide* G. Rs. Nos. 6387, dated 9th September 1890, and 8238, dated 20th November 1890.)

15. The following form should be used in submitting the final crop forecasts of the Bombay Presidency. The appended memorandum of suggestions may be conformed to in the compilation of these forecasts as nearly as the circumstances of the Presidency admit. Particular importance is attached to the suggestions in paragraph 4. To the final forecast of the Bombay cotton crop, the Director of Land Records and Agriculture should append a statement showing district details.

* Under later instructions (*vide* G. I., R. & A., No. 15-52-6, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1895) forecasts of cultivation and of outturn of crops are to be communicated to the Director-General of Statistics.

Final Forecast of the Crop in the Province for the year 189

District.	ACREAGE.					OUTTURN.							
	Of current year's crop (1895-96).	Of previous year's crop (1894-95).	Average of preceding years.		Percentage by which column 2 exceeds (+) or is less than (-) area in		Estimated yield of current year, i.e., of area in column 2 (1895-96).	Yield of previous year, i.e., of area in column 3 (1894-95).	Average of preceding years.		Percentage by which column 7 exceeds (+) or is less than (-) outturn in		
													Column 3.	Column 4.	Column 8.	Column 9.
	1	2	3	4		5	6	7	8	9		10	11
			(a) Five years.	(b) Ten years.		(a) Five years.	(b) Ten years.		(a) Five years.	(b) Ten years.		(a) Five years.	(b) Ten years.

Note.—The years on which the average is calculated should be *exclusive* of the year for which figures are given in columns 3 and 8. For instance, if the forecast is for the year 1895-96, columns 3 and 8 will show figures for 1894-95 and columns 4 and 9 for (a) 1889-90 to 1893-94, (b) 1884-85 to 1893-94. In columns 2, 3 and 4 the figures should be in acres; in columns 7, 8 and 9 they should be in tons for wheat and oil-seeds, in cwts. for rice, and in bales of 100-lbs. for cotton. For other crops the weight should be given in tons, cwt. or lb. as may be found convenient.

MEMORANDUM.

With the intention of securing greater accuracy in the system of estimating the outturn of harvests and uniformity in the exhibition of the statistics embodied in the final forecast reports on crops, the Government of India, in August 1891, called for information regarding the system adopted in each province and circulated a form of statement for criticism. The replies received afforded useful information and suggestions as to the method of calculating harvest yields.

2. The system generally followed is, that the area under crop being measured and accurately known, the outturn in annas is calculated by some officer for a certain area. The area and estimated outturn are reported to the Director of the Agricultural Department. For each area reported on, the Director has by him a standard of outturn per acre corresponding to a 16-anna crop, and by applying this he gets the estimated outturn. Thus if y represents the standard outturn per acre and a 12-anna crop on x acres is reported, the outturn is estimated at $\frac{12}{16} x y$. The area and estimated outturn of the province are then reported to the Government of India, by whom the provincial statistics are published in a combined form.

There are thus three items in the estimate, *viz.*, the "area," the "fraction," and the "standard."

3. As regards the area, there exists in the village establishments of most provinces an agency capable of reporting the acreage of crops with great accuracy wherever the fields have been mapped and surveyed. But, although yearly diminishing in extent, there are still important tracts for which at present statistics are not available, owing to the absence of maps or the non-existence of trained village establishments. For these tracts the areas as well as the outturn cannot be more than an estimate. These area-estimates, once framed, are too often allowed to become stereotyped and repeated year after year without regard to the influence of exceptional seasons or changes in the economical condition of the tracts. They should be revised with care annually by comparison with the conditions prevailing in surrounding areas of a similar character for which accurate information is available, and by means of such special enquiries as may be possible. To this end the estimates of unsurveyed areas, where they are large and important, should be shown separately in the returns from the figures relating to surveyed areas and should not be merged in the latter. This separation is already carried out to a large extent in the returns of agricultural statistics for British India.

4. In dealing with the calculation of areas, two other matters in which practice varies, demand consideration, *viz.*, (1) whether the area returned should be the area sown or that successfully cropped, and (2) in the case of forecast crops which are sown

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mixed with other crops, whether the total area covered with the mixed crops should be exhibited, or an area calculated to represent the acreage covered by the forecast crop only.

As regards (1) the general rule should be that the returns should exhibit the areas actually sown, whether the crop comes to maturity or not. The failure of the crop should affect, not its area, but its outturn. An exception to this rule will, however, be made when fields, owing to the failure of the first sowings, have been devoted to other crops. In this case the area first sown with the forecast crop may be omitted. As to (2), the areas covered by the several crops in a mixed field are at present estimated in various ways in the different provinces, and the most suitable method of calculation of them is a question of some difficulty. But for purposes at least of the forecast, the area to be returned must be the area covered by the forecast crop, exclusive of the area covered by the other crops with which it is mixed. However rough the estimate of the area of the forecast crop may be, it will be less far from the truth than a return of the area of the whole mixed field as the area covered by the single forecast crop.

5. The method of arriving at standards for the conversion of anna estimates is under separate consideration, in connection with the requisition received from the Secretary of State for India for periodical returns of the average outturn per acre of the principal crops. In view, however, of the fact that the accuracy of a standard bears necessarily an inverse ratio to the extent of the area for which it is framed, and that in some provinces extremely wide areas have been adopted for the framing of a single standard, it is desirable that some limit should be introduced as early as possible, in regard to the unit of area for which standards should be framed; and that ordinarily it should not be larger than a taluka or tahsil. To ensure the correct application of the standards, the areas for which fractional anna-estimates are made and reported should invariably correspond with those for which standards are framed. Experience has shown, moreover, that the anna-estimates of village officers, when not systematically tested, become untrustworthy and misleading; and where they are not actually prepared by a responsible local official of rank, they should always be carefully checked by means of information independently collected from landholders. The resulting outturns for the province should also be tested in the office, in which the computation is made, by the light of trade returns, estimates of consumption (where such exist), and other cognate statistics. If the comparison indicates palpably misleading results in the crop returns, no time should be lost in amending the standards for the crops concerned.

6. Prefixed to this memorandum is the form of statement which should accompany the final forecast for each crop reported on. In previous instructions it has been laid down that the normal area and out-

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turn should be calculated on the average of the last five years exclusive of exceptional seasons. Statistics are, however, now available for a considerable series of years, and it is no longer necessary to adhere to this scale. The normal area and outturn should be taken as the average of the whole period for which reliable data are forthcoming, irrespective of the character of the season, but the period upon which the calculation rests should be indicated in the return.

(G. I., R. & A., Nos. 48-9, dated 21st December 1892; 8-53, dated 23rd February 1893; and 885-53, dated 21st April 1893; *vide* G. Rs. Nos. 269, dated 11th January 1893, 1949, dated 15th March 1893, and 4417, dated 20th June 1893.)

PART VI.—CROP EXPERIMENTS.

1. In carrying out crop experiments nothing with regard to the localities should be suffered to transpire until the experiments are actually made. No crop is to be cut except in the presence and under the personal supervision in the field of a European officer or Deputy Collector, before whom also the threshing out of the crop should be made, and its weight and the area from which it was cut noted down in his own handwriting. It is particularly enjoined on all officers who may be called upon to conduct crop experiments, that Government rely upon their taking a personal interest in the matter and carrying out to the letter the instructions of the Survey Commissioner.

The expenditure need not be restricted to the payment of labourers: a present to the owners or occupants of land whose crops may be operated on, or to any other person who may give zealous assistance, is allowable.

(G. R. No. 3859, dated 6th August 1872.)

2. Government will not lightly accept any excuse for failure to make crop experiments in any district for any year. The subject is most important. (G. R. No. 776, dated 27th January 1883.)

3. The reports on crop experiments should be submitted in print. The Superintendent, Government Central Press, should as usual apply to Government, as soon as he has received the manuscript reports, for instructions as to the number of copies to be printed. (G. R. No. 6752, dated 12th September 1883.)

4. The Governor in Council must impress on all officers concerned the necessity of care and attention in making crop experiments. The absence of such care and attention to the rules entails waste of time and labour, and gives absolutely valueless results. Besides the importance of the results in connection with the incidence of the land revenue and the condition of the peasantry, the habits of observation formed and the information about agriculture gained in making the experiments are invaluable to Government officers, and the evidence of accuracy, patience and intelligence or the want of them which the experiment afford is carefully noted by Government. (G. R. No. 4755, dated 3rd July 1886.)

5. The Director of Land Records and Agriculture, besides criticising experiments *after* they are made, should keep a general watch over the experiments proposed to be made in any year. He should draw up a programme, in consultation with Collectors, of the experiments considered necessary, the talukas in which and the times at which they are to be made, and should endeavour, by communicating at the proper times with the Collectors concerned, to prevent the matter being lost sight of, as, it is feared,

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is too often the case, especially when transfers of District officers have recently been made. Special experiments, no doubt, take up more time than many officers can spare. Allowance must be made for this fact in drawing up the programme mentioned above; but these experiments should, nevertheless, be considered as necessary. (G. R. No. 2823, dated 13th April 1889.)

6. Where the prescribed programme has not been carried out, Commissioners should comment on such omissions by District officers when submitting their remarks on the Director's report. (G. R. No. 2253, dated 31st March 1891.)

7. The Director of Land Records and Agriculture should submit his annual report on crop experiments by the end of the revenue year, so that Government might have the results of crop experiments before them when reviewing the Annual Administration Reports of the District officers. A further advantage would be that the criticisms of the Director could be communicated to experimenters before the following season's experiments were conducted, and an officer would have the opportunity of repeating in the same locality and on the same crop the experiment of the previous year, with special view to the avoidance of any errors pointed out by the Director. To enable the Director to submit his report to Government in time in accordance with the above instructions, the officers conducting experiments should transmit their reports to that officer *immediately on completion of the experiments*. (G. Rs. Nos. 2341, dated 11th April 1890, and 3377, dated 15th May 1890.)

8. The possibility of an officer losing his notes or going on leave, or being transferred to another district before reporting on the experiments he has conducted or subsequently supplying information required to explain his report, should be obviated, and, therefore, the reports should be submitted by experimenters immediately on completion of the experiments. The Director will then be in a position to, and should, make further references to experimenters with the object of clearing up any points in their reports which appear doubtful. (G. R. No. 849, dated 7th February 1888.)

9. In the case of *ordinary* experiment unless the officer conducting the experiment has leisure to deal fully with the question, no attempt should be made at compiling details of cost of cultivation. An *ordinary* experiment ends with the ascertainment of the ratio which the Government assessment bears to the gross produce. Calculations as to cost of cultivation in such experiments are, therefore, of use only in so far as they afford a means of comparison with similar calculations made in the case of *special* experiments, and if they are inaccurate, they are obviously worse than useless. (G. R. No. 2541, dated 11th April 1890.)

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In the case of ordinary, as well as special experiments, it would be useful if information regarding the *rent*, as distinct from assessment, paid for the land in question could be given whenever possible. (G. R. No. 2253, dated 31st March 1891.)

10. The form in which the quinquennial return showing the average yield per acre of the principal crops in India will be submitted* is that given in Appendix I to this Circular, and the crops of which the outturn will be shown are those noted against the names of the respective provinces in Appendix II.

These quinquennial returns will be based on information collected every year by enquiry or actual experiment. Rules for the conduct of crop-cuttings have been in force for some years in Bombay and certain other provinces. Copies of the rules adopted in Bombay are annexed, Appendix I.

APPENDIX I.

Return showing the approximate yield per acre of the principal crops in the Provinces (189—189 .)

NAME OF CROP.		AVERAGE OUTTURN IN LBS. PER ACRE CROPPED.							
		PROVINCE.			DISTRICT A.		DISTRICT B.		&c.
Ordinary name.	Botanical name.	Irrigated.	Unirrigated.	Irrigated and Unirrigated.	Irrigated.	Unirrigated.	Irrigated.	Unirrigated.	&c.
1	2	3	4	5	6	7	8	9	10

NOTES.—(a) Crops should, as far as possible, be classed and entered in the order adopted in Table A. 3 of the Annual Agricultural Tables.

(b) The yield should be that of the crop when sown unmixed. In each column the estimate given should be that of the average outturn on average soil in a year of average character as deduced from a consideration of the information obtained or experiments made during the years under review; so that when multiplied by the average area cropped it may give as near an approximation as possible to the outturn of the crop in an average year.

(c) It is not necessary that estimates of outturn of each crop should be made for every district; they may be given for selected districts only.

(d) *Columns 3 and 4—Provincial Estimate.*—Where the outturn of the crop has been estimated for each district, the average outturn of the provinces can be estimated by multiplying each district outturn by the area cropped in each district and dividing the total outturns by the total area cropped in the province. Where the outturn has not been estimated for each district, the best estimate possible should be made.

(e) *Columns 3, 6, 8, &c.*—In the case of crops not ordinarily irrigated these columns may be left blank.

(f) *Column 5.*—Will be obtained by multiplying column 3 by the irrigated area cropped, adding column 4 multiplied by the unirrigated area cropped, and dividing the sum of the above by the total area cropped.

(g) A brief memorandum stating the sources of the estimates and the manner in which they have been calculated should accompany the return.

* Under G. I., R. & A., No. 15-52-6, dated 23rd May 1895 (G. R. No. 4678, dated 21st June 1895), this return is to be forwarded to the Director-General of Statistics.

APPENDIX II.

List of crops, the outturn of which is required in the Quinquennial Return of yields.

CROP.		Madras.	Bombay.	Sindh.	Bengal.	North-Western Provinces and Oudh.	Punjab.	Central Provinces.	Lower Burma.	Upper Burma.	Assam.	Mysore.	Ajmere.	Coorg.	Berar.
Ordinary name.	Botanical name.														
1 Rice (husked).	<i>Oryza sativa...</i>	a	a	b	a	a	a	a	a	a	a	a	b	a	b
2 Wheat	<i>Triticum sativum ...</i>	b	b	a	a	a	a	a	b	b	b	b	b	b	a
3 Barley	<i>Hordeum vulgare ...</i>	b	b	a	a	a	a	a	b	b	b	b	a	b	a
4 Jowár	<i>Sorghum vulgare ...</i>	a	a	a	a	a	a	a	b	a	b	b	a	b	a
5 Bájra...	<i>Pennisetum typhoid-eum.</i>	a	a	a	b	a	a	b	b	b	b	b	b	b	a
6 Rági ...	<i>Eleusine coracana ...</i>	a	a	b	b	b	b	b	b	b	b	b	b	b	b
7 Maize	<i>Zea Mays ...</i>	b	b	b	a	a	a	b	b	b	b	b	a	b	b
8 Gram...	<i>Cicer Arietinum ...</i>	b	a	a	a	a	a	a	a	a	b	b	a	b	a
9 Linseed	<i>Linum usitatissimum.</i>	b	a	b	b	a	b	a	b	b	a	a	b	b	a
10 Til ...	<i>Sesamum indicum ...</i>	a	a	a	a	a	b	a	b	a	b	a	b	b	a
11 Sugar cane (manufactured gur or jaggery.)	<i>Saccharum officinarum.</i>	a	a	a	a	a	a	a	b	b	a	a	b	b	b
12 Cotton (cleaned).	<i>Gossypium, sp ...</i>	a	a	a	a	a	a	a	b	a	b	a	a	b	a
13 Rapeseed or mustard.	<i>Brassica campestris...</i>	b	a	a	a	a	a	b	b	b	b	b	b	b	b

NOTE.—Returns are required for crops marked *a* and are not required for crops marked *b*. There is no objection, however, to Provinces ascertaining the yield of other crops besides those of which returns are required and including them in the return.

The yield given should be in all cases that of the main product of the crop (*e.g.*, grain, manufactured gur or jaggery, cleaned cotton, &c.): if any estimate can be made of the outturn of by-products (*e.g.*, straw, fodder, &c.), these should be added below the estimate of the main product.

STANDING ORDERS ON CROP EXPERIMENTS (BOMBAY).

Introductory.

1. The crop experiments made by Revenue officers, not below the rank of Deputy Collector, are of two kinds—ordinary and special. The former deals with a selected survey number or subordinate number. The latter deals with all the numbers making up a selected holding, and is based on one or more ordinary experiments made on holding or even in part, as will be explained (para. 27) on fields not contained in the holding under enquiry.

A.—Ordinary Experiments.

2. The objects of ordinary experiments are: (1) to ascertain the outturn of the whole number by cutting the crop or crops on small accurately measured areas; and (2) after making a careful valuation of the outturn of both principal and by-products to show the incidence of the assessment fixed by the Survey and Settlement Department on the value of the gross produce.

NOTE.—By continuous attention year by year, by ledgering the results with notes as to the character of the season, and by careful deductions from numerous recorded results most trustworthy information as to the varying outturn of staple crop and even of minor crops, as to customary rotations, crop mixtures, catch crops, double cropping, and the like will be gleaned; and the burden of the land tax justly estimated.

Short Rules and Cautions.

3. Read over the instructions printed on the standard form carefully and fill in *all* the information asked for in the headings to the columns.

4. Do not select a field with an abnormally poor crop, but seek to choose a crop which represents a fair average for the season.

5. Show how you made your selection. Describe shortly the various steps taken in the conduct of the experiment so as to prove that you have maintained the closest personal supervision and have taken due care to prevent any tampering with the cut crop.

6. Remember that you are to estimate the out-turn of a whole field by tests on small areas. Be very careful then in measuring, always using chain and cross staff; and if the crop is at all uneven, as it generally is, make up the area of test by patches cut with discrimination in different parts of the fields, but do not cut any patch less than two gunthas, else you risk error.

7. Choose areas of which 40 gunthas is a multiple, to save yourself unnecessary labour in calculations, but do not neglect the prescribed minimum (*vide* remarks on column 8 of Standard Form), else your trouble will be fruitless; and do not err on the other side by cutting very large areas, which will take unnecessary time and labour.

8. Do not attempt to ascertain the cost of cultivation, or the incidence of assessment on net produce, unless your ordinary experiment is to fit in with and help a special experiment, or unless you have unusual facilities.

9. Show simply, but fully, how you arrived at the rate of seeding, rotation, &c.; in fact explain each entry in the tabular statement, so that it may be accepted without lurking suspicion of inaccuracy.

10. Note that the entry (column 12) of local estimate in annas is not to be made with reference to other fields, but is one based on the capabilities of the area of experiment, which vary with the season.

But in your report you should also compare the crop with that of similar crops of the village or taluka of the same season, in order to show how near you have been able to select an average crop of the season (see rule 4 above).

11. Be careful to weigh or measure *grain* and *seeds* well dried. The measure ser is always a heaped measure. If practicable, have the measure filled by a grain-dealer and weigh the contents in a carefully tested balance with Government Rupees as a counterpoise. Repeat the filling and weighing 3 or 4 times for the sake of accuracy. Do this about a week after the crop has been threshed, and keep for that purpose about $1\frac{1}{2}$ sers of the grain or seed.

12. When the test is done, send the exact contents of the local ser to the Director, Land Records

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and Agriculture, with your bill of costs or report, noting the test results.

13. Do not confound the weight ser and the measure ser, and remember that the weight of the contents of a measure ser will vary with different grains or seeds, and even with different qualities of the same.

14. Where the weight ser is customary, it will suffice if 2 or 3 tolas weight of the grain or seed of the experiment are sent, so that the sample may be examined.

15. In the case of rice, ground-nut, and other crops, where the crop is generally sold by the producer *with* its husk or shell, be careful to show whether your entries are for the unhusked or unshelled product, or for that with the shell or husk removed.

16. In sugarcane tests show number of canes, weight of canes topped and stripped for the mill, weight of tops, weight of juice, and finally weight of gul, which is the principal product. The by-product is the fresh tops used as fodder. Other by-products need not be noticed.

17. When the incidence (column 27) is very high or very low, comment fully and carefully, showing the reason or reasons, remembering that one of the principal objects is to test the burden of the assessment. *When the selected crop is a poor one in the rotation, or when it is a second crop after one reaped early in the season, or when it is a subordinate row crop, be very careful to intimate the fact clearly.*

B.—Special Experiments.

18. The objects of special experiments are not unlike, but are more extensive than those of ordinary experiments. The special experiment is, as shown above, one on a selected *holding*. The typical holding is one fairly representing the average agricultural holding of the locality cultivated by a holder, who subsists and supports his family on it, and who has no other means of support than the crops raised on his holding. But the typical holding is hard to find at the time which the experimenter can devote to the enquiry.

19. Experimenters are free to select holdings, which may greatly differ from the typical one described, *e. g.*, (1) a holding cultivated entirely by tenants; (2) or entirely by hired labourers; (3) or one occupying only a portion of the time of the holder who lives partly by day labour or by some trade. Again holdings, cultivated by tenants vary in character according to the nature of the agreement between the holder and the tenant.

20. In the typical holding and in holdings which can by careful manipulation be reduced to the type, the main object is to show by exhaustive enquiry what the standard of living of the holder is as compared with that of the day labourer.

21. In other holdings, the main object is to show whether the holding gives a fair return for the labour and money expended on it. Other objects are to show the varying conditions under which the land is sub-let, the profits of investing in land, the rent received by investors or superior holders compared with the assessment, and the like.

22. The enquiries necessitated by special experiments should throw light on the varying methods of tillage; the kinds of manure and the mode of application; the customary usage as to employment and payment of hired labour for weeding, harvesting, &c.; the number of acres tilled by one pair of bullocks; indication of improvement in the methods of tillage by the use of improved implements for cultivation or for preparing the crop for the market; the increase in the growth of crops for export rather than for local consumption; the introduction of new crops, sales of standing crops; in fine, everything connected with the practice and improvement of agriculture.

Short Rules and Cautions.

23. A special experiment comprises one or more ordinary experiments. The details for the component parts of the special experiment should be entered in the prescribed form as for so many ordinary experiments, and the instructions under the head "Ordinary Experiments" are to be observed as far as they are applicable.

24. The size of the holding to be selected for experiment will depend very much on the time which the officer is able to spare, and on the average holding of the tract. It is not convenient to choose very small holdings, while, for obvious reasons, very large ones cannot satisfactorily be dealt with.

25. Officers are advised at first to carry out experiments on holdings cultivated wholly or for the most part with one or two of the chief crops of the district. After making several such experiments, an officer will find it easier to experiment on holdings cultivated with a variety of crops; assisted, as he would be, by the results, *mutatis mutandis*, of the simpler experiments.

26. Where the holding comprises several survey numbers cultivated with the same crop or with different crops, happening to be ripe for cutting at the time of experiment, plots should, if possible, be selected in each field. This should be specially attended to, if widely differing rates of assessment on the several fields disclose the fact that the soils have been classified as of varying quality and productiveness. *Experimenters should be careful to deduct in special experiments the unsown portions of arable lands.*

27. When the average produce of each field has been estimated, as far as possible, by the tests made, it will frequently be found that the outturn of a row crop, or other subordinate crop, cannot be ascertained. Experimenters should endeavour to

supply the deficiency in the best method available. There is a large number of careful experiments in the yearly reports, which may be utilized (provided the results are intelligently applied), or later on in the season the experimenter may find it easy to take an ordinary experiment elsewhere on a crop similar to the unestimated crop. Such experiment should then be embodied with the other component parts of the special experiment. Foresight must be used to prevent, if possible, the choice of a holding containing a crop which cannot be directly or indirectly estimated, unless, indeed, its area is insignificant.

28. The next step (after filling in the tabular statement) is to calculate the gross outturn of the holding. First show exactly the area and assessment of all the component parts of the holding and then compute the outturn of principal and by-products for each part and the seed used for each crop.

29. From this point the treatment will vary according to the nature of the holding. If it be a holding of the kind described above (paragraph 18), then make deductions in kind for (1) seed used, (2) fodder required for plough cattle. Value the balance according to the entries of the tabular statement. If the holder has borrowed seed to be repaid on the crop with interest, deduct the amount to be repaid rather than that actually used.

30. The balance left must be now stated in rupees. Deduct all items of cash expenditure:—

e. g., Local Funds, Irrigation charges, manure purchased; cattle food, as cotton seed which is purchased; hired labour paid in cash or kind. If in kind, the value of the grain, &c., given should be computed. Payments to balutedars also converted into cash.

Note.—Payments in kind may be deducted with seed and fodder if found more convenient.

31. The balance after the cash deductions goes to pay assessment and to support the holder and his family. Deduct assessment (exclusive of Local Funds, charges of Irrigation Department for water of Government tanks and canals) and then show the number of men and women and children in the holder's family dependant on the holding for support.

Estimate requirements for food, clothing, condiments, &c. Compare the standard of comfort thus disclosed with that of the day labourer.

If milch cattle are kept, they prove an increased standard of comfort. Estimate their requirements for keep and show how it is met. If their milk is sold in part, show how far this meets their keep.

32. If the holder is in debt, show how contracted and how being paid off. Whether increasing or diminishing.

33. Turning now to other kinds of experiments, all that can be done is to give one or two examples,

hearing in mind the remarks in paragraphs 19 and 21 above.

Case A.—Holding of day labourer or village artisan partly supporting himself by agriculture and possessing land and cattle of his own. Show the area and the assessment of the land and the outturn with value of each portion. Make deductions as above, but do not suppose that the bye-products will necessarily feed the cattle for the whole year. If they are not sufficient, show how the cattle are used, when not engaged in the holding. Show as nearly as you can how many days the holder and members of his family are engaged in cultivating the land. Take no notice whatever of the rest. Then show what balance is left to the holder, as a return for the labour and time expended, and comment on the number of months this return will keep him and those of his family, either too young to work or working on the land, and discuss how he supports himself and them for the rest of the year.

If in such a holding the holder has no cattle, the necessary modifications, *e.g.*, cost of hire, should be made.

Case B.—Superior holder sub-letting land at a grain or cash rent. Show agreement between holder and tenant. Show after calculation of outturn the net receipts of holder and compare the value with the assessment. Turning to the tenant, show the cost of labour, human and animal, spent on the cultivation, and cash payment by tenant. Divide outturn between tenant and holder according to agreement, and comment on the return from the tenant's share, for the labour and money spent by him.

Cost of Cultivation.

34. In all special experiments, whether the cost of cultivating each individual crop is an essential part of the enquiry or not, experimenters are expected to make the estimate for each individual crop or crop mixture.

35. First ascertain what operations were actually required and performed for each crop or crop mixture.

36. Study the sample entries for cost given in the Appendix to Report for 1889-90. Show how many bullocks were yoked to the plough, or harrow or seed-drill, and how many men, &c., required.

37. For each operation ascertain by inquiry about how many acres can be covered in a day or, if less than one acre a day, what portion of an acre can be covered in one day.

38. Base the charges for man or woman or child on the local rates for hired labour; so the hire for a pair of bullocks.

39. Show cost of watering, weeding, &c., in the same way.

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40. Reduce all estimates to the cost *per acre*, and show by remarks information sufficient to allow of the calculation being fully checked.

41. No form is prescribed, because no one form can be applied to all estimates. The form recommended on page 41 of Report for 1887-88, or those shown in the Appendix to Report of 1889-90, may be selected, or another form may be devised, if necessary, provided home and hired labour are distinguished when necessary, and provided the rates of charges are specified and explained.

Standard Form, Bombay.

B 1955-340 REV.

Number of Experiments.	Village and taluka.	Survey or subordinate survey No.	Area deducting pot kharab.		Assessment, original or revision survey.			Kind and extent of irrigation, if any.	Special water-rate, if any, fixed by Settlement Department.			Area selected for experiment and date of experiment.	Name of crop experimented on with local name to show variety.	Usual rotation.	Character of season as affecting the crop of experiment.	Local estimate, in annas.	Kind of soil with local name.	Character of cultivation—good, indifferent or bad.	Kind, quantity and time of application of manure. Per acre.	
			A.	G.	Rs.	a.	p.		Rs.	a.	p.									Gunthas.
1	2	3	4		5			6	7			8	9	10	11	12	13	14	15	

Amount in lbs. (= 39 tolas each) of seed.	Sown broadcast or drilled. If latter, with what kind of drill. In what month sown.	OUTPUT OF AREA OF COLUMN 8.						AVERAGES PER ACRE.						REMARKS.									
		Yield of grain or other principal product.	Equivalent of ditto in lbs. (= 39 tolas each) according to actual test.		Yield of chaff or other useful bye products.	Value of principal product.			Value of bye-products.			Principal product, column 19.	Bye-products, column 20.		Total value of yield, columns 21 and 22.			Assessment fixed by settlement Department, columns 5 & 7.			Percentage (incidence of column 20 on column 25).		
			Local aers (measure).	Lbs.		Tolas.	Lbs.	Rs.	a.	p.	Rs.				a.	p.	Lbs.	Lbs.	Rs.	a.		p.	Rs.	a.	p.
16	17	18	19		20	21			22			23	24	25			26			27	28		

(Signature)
(Designation)

NOTE.—One page foolscap size should be used for explanatory remarks required by standing orders.
 NOTE.—One printed copy of this form is to be filled in for each special experiment, but as many ordinary experiments may be found convenient may be entered in one copy.
 COLUMN 8.—Minimum area for dry-crop 8 G.
 Ditto. garden and rice 4 G.

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EXPLANATORY NOTES.

Column 4.—Show total area, then pot-kharáb, and then the difference, which is the total assessed area—V. F. No. I, columns 4, 5, 14, Manual of Revenue Accounts.

In mixed numbers, *e.g.*, numbers assessed partly as rice or garden and partly as dry-crop, show area and assessment in detail for each class of land—V. F. No. I, columns 7-12.

Column 5.—Write below figure of assessment "Original" or "Revision Survey" as the case may be.

In case of land paying only a quit-rent, show *full* assessment—V. F. No. I, column 15.

Columns 6, 7.—Show whether by well, canal, tank or channel. If water-rate is fixed and shown in V. F. No. I, column 13, enter in column 7. If charge is made by Irrigation Department, leave column 7 blank and show in column 6. If land is irrigated but no special rate levied, show reasons in column 6, *e.g.*, private well made since settlement.

Column 8.—Area not to be less than 8 gunthas in dry-crop or 4 gunthas in rice or garden. In special experiments the aggregate area of tests to be generally up to 5 per cent. of the holding.

Column 9.—Give the name according to column 2 of the list appended to V. F. No. 16, and the vernacular name of the variety.

When the area selected for experiment (column 8) contains more crops than one, show in column 9 all the crops and in report explain the nature of the mixture. If it consists of one crop with rows of a subordinate crop, find the proportionate area under each crop by counting the rows. If the seed of two or more crops was sown mixed, find the proportionate area by considering the seed sown. Cases will occur where both means of ascertaining the proportionate area must be used.

Divide the area of column 8 among the ingredients of the mixture and show the division in column 9.

Column 10.—Here enter in order of rotation crops sown in previous years, *e.g.*, 1 wheat, 2 jowári, and 3 gram. The figures 1, 2, 3 means 1st, 2nd and 3rd year. If in any year two crops are taken off the same piece of land, the two should be bracketed, thus 2 { (1) Rice
(2) Wheat. }.

If the rotation cannot be ascertained, write "undefined" and enter the crops as shown in V. F. No. 3 for the last three years in the manner above described. Where the rotation includes one or more years of fallow, show the customary fallows.

Column 12.—The estimate is to show the anna valuation of the crop as compared with former crops on the same field.

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Column 15.—Amount of manure per acre should generally be shown. By time of application is meant whether before or after sowing, as a top dressing.

Column 16.—If seed sown first in seed-bed and then seedlings transplanted, show proportionate area of seed-bed to acre of transplantation, and then calculate entry for the column.

Column 18.—Where weight ser and not measure ser customary, erase "measure" and substitute "weight."

Column 19.—Below entry of equivalent weight write 1 ser = tolas, *viz.*, the result of the actual test on which the entry is calculated.

Column 20.—Useful, that is useful as fodder or saleable for other purposes.

Columns 21-22.—Experimenters are not authorized to accept the prices recorded in the "Prices current" published in the *Government Gazette* for the purposes of entering the money value of the crop, but should ascertain it at the market town, which should also be the usual market of the produce. The value obtaining on the date of experiment, with the name of the market town at which it was ascertained, should be shown in these columns, and for purposes of check show the market rates both for principal and by-products in lbs. per rupee on which valuations are made. If fodder is sold in bundles, &c., find by test average weight of bundle, give price per 100 bundles, and calculate and show also price in lbs. per rupee.

Column 26.—See note on columns 6 and 7. The average assessment per acre should be calculated on the class of land dealt with in the experiment. Fluctuating canal-rates, sometimes levied according to the season for which water is taken, and sometimes according to the crop raised and calculated at rates liable to be modified from time to time, should not be considered as forming part of the standard assessment, but should be shown in column 6, as stated above.

Column 27.—Show to two places of decimals, not in rupees, annas, and pies.

Special Bombay Rules for the preparation of a Quinquennial Return showing the average outturn per acre of principal crops.

	Remarks.
I.—The number of crop experiments carried out by each Sub-Divisional Officer will be three ordinary or one special.	The number now prescribed is two ordinary or one special.
II.—Divisional Inspectors, Land Records and Agriculture, will perform the same number of experiments.	These officers are directed to make experiments by Departmental Orders, but they should be brought under the general scheme.

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| <p>III.—The Superintendent of Farms and the Superintendents of Local Government Farms will report experiments made on the farms or elsewhere under orders of the Director, Land Records and Agriculture.</p> <p>IV.—The direction of crop experiments will vest in the Director of Land Records and Agriculture in consultation with Collectors, and they will be carried out to meet as far as possible the requirements of the return.</p> <p>V.—The Director of Land Records and Agriculture will revise the averages quinquennially on the basis of results obtained from experiments to date. The figures of the return will follow the formulæ till the basis for this revision has been finally ascertained. The figures so revised will be printed in red ink.</p> | <p>The cultivation records are of course already kept up on the farms, but are not reported in the experimental farm.</p> <p>This provision is already made in Government Resolution No. 2823, dated 13th April 1889.</p> <p>The ledgering of experimental results is already carried out in the Director's office.</p> |
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Report of the Director of Land Records and Agriculture under paragraph 6 of Government of India letter No. 3-45, dated 20th February 1892 (Revenue and Agricultural Department).

The crops proposed for each district are those shown in the provisional statements attached to this office letter to Government, No. 1237, dated 27th May 1892.

2. It may be possible eventually to distinguish between crops grown on 1st, 2nd and 3rd class soil; for the present only the district average can be shown.

3. The provisional form of return shows outturn in *each* district and not for Representative Districts as implied in paragraph 1 of the Government of India letter. In the Bombay Presidency proper, it is not necessary or desirable to make any limitation as the formulæ and crop experiments alike extend to every district.

4. Mixed crops will in no case be returned as such. Both under the Revenue Manual and in Crop Experiments the several components of such crops are dealt with separately.

5. The form proposed is generally suitable as it stands.

(G. L. R. & A., No. 37—26, dated 27th June 1893; *vide* G. R. No. 5665, dated 5th August 1893.)

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11. Collectors should take steps to have the programmes observed as strictly as the circumstances of the season will allow. Only in cases where special circumstances exist should any deviation be allowed.

Copies of the programmes of crop experiments, which are annually settled by the Director, in consultation with the Collectors, should be communicated to the Commissioners to enable them to exercise proper supervision over the operations allotted to each officer. The Director, to whom the reports are forwarded immediately on completion of the experiment, should, when necessary, call for further information or verification of details, and in the absence of other defects, results should not be excluded because they differ materially from formulæ, the accuracy of which has not yet been established.

(G. R. No. 3547, dated 15th May 1893.)

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PART VII.—AGRICULTURAL EXPERIMENTS.

1. The recommendations of the Statistical Conference regarding the system of carrying out and reporting agricultural experiments were briefly :—

- (a) That agricultural experiments should be systematically prosecuted in every province where adequate machinery for the purpose exists, and that "areas should be set aside in every province for the trial of agricultural experiments with a view to obtaining scientifically accurate results," it being left to Local Governments, subject to the principles laid down by the Government of India, to decide whether such areas should be situated on estates under Government management or on experimental farms.
- (b) That as it is important to obtain and exhibit comparative results, care should be taken that all conditions other than those appertaining to the novelty itself should be, so far as possible, identical on the two areas.
- (c) That in the management of the experimental farms, undue stress should not be laid on financial results, no portion of the area being necessarily managed with the sole object of obtaining a net profit on the outlay, and that, therefore, to emphasize their character such farms should, in future, be termed "experimental" rather than "model" farms.
- (d) That with a view to economy the area under experiment on each farm should be the smallest consistent with the object in view—that of obtaining trustworthy results.
- (e) That reports on experimental farms should be strictly confined to a description of the working of the farms and to a clear and accurate account of the experiments made, excluding the discussion of all points requiring the orders of Government; and that the reports might most conveniently take the form of one progress report for each of the two main agricultural seasons of the year, supplemented by an annual report of a somewhat fuller character.
- (f) That uniformity should, so far as possible, be observed in regard to farm returns and accounts.

2. The points on which the opinions of Local Governments and Administrations were specially desired were—(1) whether experimental farms should be the subject of a report after each of the principal harvests, supplemented by a full annual report; (2) what forms should be adopted to show the results of farming and experiments; and (3) how far the financial results of working should be taken as tests of success.

3. As to point (1) the Governor General in Council is led to the conclusion that one annual record

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is sufficient for submission to the Government of India, though there is no reason why the record should not be brought out in parts after each harvest, should the Local Government consider this arrangement desirable for provincial purposes. In accordance with the principles put forward by the Conference, the record of the experiments should be brief, concise and positive, and should not be complicated by the discussion of questions of a speculative or administrative character. The Government of India would prefer, therefore, that if no objection is offered to this course by the Governments and Administrations concerned, reports by officers connected with Agricultural Departments or Government farms should be distinctly divided into two sections, of which the first or main section containing the body of the report and dealing with the administration of the farms or questions requiring the orders of superior authority, should be submitted to the Local Government in the ordinary course, and the second or subordinate section, containing the bare record of experimental results, should, with a view to the early publication of statistical results, be forwarded directly by the Departmental Officer to the Government of India, to all Local Governments and to other Agricultural Departments, and should, at the same time, be made available to the public through Agricultural Papers, Government Gazettes, or by other means.

4. The opinions expressed by Local Governments indicate that it is difficult, or at any rate premature, to prescribe any definite forms in complete detail for the record of experiments. At the same time, in order that proper attention may be ensured to the principles laid down by the Calcutta Conference and approved by the Government of India, and with a view to secure an amount of uniformity sufficient to admit of the intelligible collation of results in the Central Office of the Revenue and Agricultural Department, it is desired that in framing the record of experiments the following rules may be observed:—

(1) The record should be termed the "Record of Experiments of the Experimental Farm in the ^{Province} _{Presidency} of (half) year ending ."

(2) The results of each experiment should be embodied in the record in a form of which the first column should invariably be headed "Object of Experiment." In this column should appear such entries as these:—

"To test Swedish plough B pattern."

"To test effects of selected cotton-seed."

"To test value of gypsum as manure."

(3) The second column should be headed "Point or Points in which treatment of experimental area differed from ordinary native treatment." Examples of entries are:—"sugar-canes planted, 1 foot apart instead of 6 inches."

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"X plough used three times instead of native plough ten times."

(4) The form should also contain three columns showing—

(a) Results obtained by ordinary native method in weight, value, &c., per acre, per hour, &c.

(b) Results obtained from experiments in weight, value, &c., per acre, per hour, &c.

(c) Percentage of difference per acre, per hour, &c.

(5) All statistics in the record of experiments should be given under English denominations of weights and measures. No vernacular terms should on any account be employed.

(6) The total area under experiment in all farms in each Presidency and Province must be shown.

5. The following are examples of the entries prescribed by Rules (2), (3) and (4):—

Column I.	Column a.	Column b.	Column c.
Object of experiment.	Results, native method.	Result of experiment.	Percentage of difference.
1 To show result of adding gypsum to ordinary manure.	Net value profits 20 per acre.	Net value profits 25 per acre.	25 per cent. gain in profits.
2 To test X sugar mill.	Amount of cane juice extracted by native mill per hour 40 lbs.	Amount of juice extracted by X mill per hour 44 lbs.	10 per cent. gain in juice.

It is evident that in the columns (a), (b) and (c) results may be shown in more than one way: thus, in the case of field produce, the difference in outturn might be shown per acre without reference to the difference in cost of treatment; or again the difference in outturn of grain might be shown without reference to the outturn in straw. As a rule, however, it is desirable that whatever other results may be recorded, the column (c) should, if the calculation is not too troublesome, include the percentage of the loss or profit entailed in money per acre, per hour, &c. Thus in the second of the above examples the real value of the X mill cannot be gauged unless the cost of working it, as compared with the cost of working the native mill, be taken into account.

If there has been no comparative experiment, columns (a) and (c) must be left blank, but the Government of India desires to draw prominent attention to the second of the recommendations of the Conference cited above. The occasions on which columns (a) and (c) are left blank should be few.

6. The importance of stating the results of every experiment in the terms of a common unit must not be overlooked. Thus it is of little practical use to state that one method gave 2 maunds, 20 seers on $\frac{3}{4}$ th of a bigha, while another resulted in 3 maunds,

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2 seers on 2 acres. The general reader for whose information the record is to be published, however much he may be interested in the question, will not, as a rule, and indeed cannot be expected to take the trouble himself to reduce these statistics to an intelligible form. In the above example the results should in each case be shown as so much per acre.

7. The advantage of the above method of record may be exemplified by the following illustration. It is desired by the Government of India to collect the statistical evidence obtained each year in each province as to the advantage of modifying the native plough. If the percentage of outturn of profit per acre due to the use of English or American ploughs (including native ploughs modified on Western patterns) can be readily found in some one column of the record of every experimental farm throughout the country, it will be a matter of no difficulty to collate the results obtained in all parts of India and to deduce statistical evidence of a decisive character in favour of modifying the native plough or the reverse. The net or average advantage (or loss) can be expressed in a single line of figures.

8. The Government of India see no reason to change the views expressed in the previous Resolution on the question of finance. It is quite impossible that every experiment can be financially successful: on the contrary, the difficulty of procuring cheap labour on a Government farm, the improbability of initial success in introducing an untried implement or method under new conditions, before time has been given for the modifications necessary to bring it into accordance with those conditions, and the existence of unsuspected causes which may induce complete failure, render it impossible to expect a profit upon the purely experimental area. For this reason the Government of India desire that strict effect should be given to the views of the Conference that the experimental area should, if maintained at Government expense, be restricted within the narrowest limits, and that the results should be recorded in a manner which will ensure accurate information being presented in the forms employed. The Government of India cannot sympathize with any measures which involve the conduct of doubtful experiments entailing either lavish expenditure or a loose and vague record of results. For this reason they wish that the record of the experimental area should be kept entirely distinct from the report on model or demonstration farms. Upon these latter the positive results of experiments may be usefully tried with a view to financial profit, and discredit should attach to any financial failure upon them not justified by very exceptional or unforeseen causes, such as a draught, cattle-murrain, &c. Any continued failure should lead to their contraction or discontinuance. It is only on these conditions that the Government of India can believe in the utility of expending public money upon agricultural experiments. It was very distinctly pointed out in

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the Resolution of the Government of India No. $\frac{6}{32-51}$ G. of the 8th December 1881, that "agricultural improvements" must for a considerable time be looked upon as a subsidiary duty of Agricultural Departments, and while the Government of India admit that experiments in agriculture (as fully proved at Rothamstead and elsewhere) owe a great part of their value to the extent of the period over which they are tried, and should, for that reason, be taken in hand at an early date, it cannot approve of any large outlay upon them which must, however useful in its remote results, be immediately unremunerative.

(G. L. R. & A., No. 1431 A-77-A, dated 28th December 1885; *vide* G. R. No. 935, dated 4th February 1886.)

2. As many important experiments are totally unsusceptible of tabulation in the manner laid down in the Government of India's Circular Resolution No. 1431 A-77-A, dated 28th December 1885, the Superintendents of Government Farms are allowed full discretion as to the manner in which they shall exhibit the results of experiments, but to the report describing in detail the objects and the progress of experiments, an abstract should be added, tabulating the results in the manner prescribed as far as possible, and cutting from the body of the report the results of experiments not susceptible of tabulation in a concise, brief and positive form. (G. R. No. 2520, dated 1st April 1886.)

3. The method of instituting a comparison between yields on the basis of 100 as shown in the appended paragraph 5 of the review by the Director of the Department of Agriculture and Commerce, North-Western Provinces and Oudh, of the report of the Cawnpore Experimental Farm for the *kharif* season of 1883, is a simple and convenient one, and may be adopted by Agricultural Departments whenever it is convenient:—

5. The results from deep and shallow ploughing for cotton confirm those for last year, and show, though not perhaps to the extent that might have been expected, that the advantage of a moderately deep ploughing is even greater in a dry year like the last than in a year of ordinary rainfall. Taking 100 as the yield from two shallow ploughings, the proportions of the yield to that obtained by one ploughing at different depths have been as follows:—

	Year.	Shallow.	5-inch.	9-inch.
Farm — — —	1882	100	114.8	107.6
	1883	100	119.1	113.9
Common cultivator	1883	100	112.3	112.8

(G. L. R. & A., No. 81-A., dated 4th July 1884; *vide* G. R. No. 5965, dated 23rd idem.)

4. The farm attached to the College of Science, Poona, should be transferred to the Agricultural Department. The Principal, College of Science,

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Poona, will continue to be consulted only on such questions arising in the farm management as concern its educational functions, and on all such questions the Director of Land Records and Agriculture will be careful to regard the Principal's wishes. (G. R. No. 2190, dated 10th April 1888.)*

5. The Collectors should give a short account of any experiments in poudrette that may be made, in the annual report on the Administration of Municipalities within their districts. (G. R. No. 1037, dated 7th February 1891.)

6. Portions of the Agricultural Chemist's Inspection notes which discuss the results of any experiments carried out on experimental farms in the Bombay Presidency should be included in the annual reports on experimental farms. (G. I., R. & A., No. 234-88-4, dated 28th January 1899; *vide* G. R. No. 1455, dated 23rd February 1899.)

* It was stated in this Resolution that His Excellency the Governor had consented to the transfer of the old Botanical Gardens to the Agricultural Department, subject to the reservation that the gardens should preserve their present character and be open at all times to the occupants of the Government House, that the produce of the mango trees planted by the then administration should be reserved to Government House, and that the ornamental character of the gardens should not be interfered with if they were kept for grazing and grass-cutting and for ensilage experiments.

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PART VIII.—AGRICULTURAL STATISTICS.

1. The Statistical Conference of 1883 recommended the adoption of an uniform scale of colours for the illustration of percentages in maps prepared for the representation of agricultural statistics. A scale was accordingly prescribed by the Government of India in their Resolution No. 27-16-3, dated 21st March 1885. This scale is a simple ascending scale, and will generally be employed in showing percentages above zero of rainfall, crops, irrigation, and the like, over different areas. The amount of difference in percentage to be indicated by the different colours in the scale is left to the discretion of the Local Governments and Administrations. The maps are to be coloured by hand, and to facilitate this, Local Governments and Administrations will be supplied by the Stationery Department, on indent, with small boxes containing colours in cakes corresponding exactly with the prescribed scale. It will probably be found convenient that as soon as a given scale of percentages is adopted, the percentage which each colour is to express should be clearly shown on a label fixed to the inside of every box.

Whenever statistical maps are sent for reproduction by lithography to the Surveyor-General's office, the course suggested in the following letter No 292 S., dated 25th January 1889, should be adopted. Whenever it is more convenient (as would be the case where a few copies are required) to have a map prepared in the Provincial offices, the colours laid down in the scale prescribed in the circular of the 21st March 1885 might continue to be used :—

“With reference to certain correspondence that took place in 1885 on the subject of a scale of colours for the illustration of statistical maps, I have the honour to point out the great saving of both time and expense in making use of different tints of the same colour, rather than a scale of different colours, for that purpose. It is quite possible to represent seven different shades, which in most cases is quite as many as are necessary; such a map printed in shades would pass only twice through the press, whilst, if seven different colours were used, it would necessitate eight pulls, or at least four, if three of the colours could be made by combination. Again, as regards the legibility of the map, I think there is no doubt as to the superiority of graduated shades of one colour, for the purpose of illustrating percentages, over the method of allotting a separate colour to each percentage. If this is acknowledged, I think it would be advisable to issue instructions to those who require such maps prepared to allot to each percentage a number, which number should be shown on the map in each district to which it refers. The table of references explaining the percentages should also be clearly given on the margin of the map. By this plan all hand-colouring and possibility of confusion between different colours is avoided.”

(G. I., R. & A., Nos. 27-16-3, dated 21st March 1885, and 14-63-2, dated 27th February 1889; *vide* G. Rs. Nos. 2956, dated 11th April 1885, and 2436, dated 28th March 1889.)

2. The errors and discrepancies occurring in the agricultural statistics submitted to the Government

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of India will be adjusted by them in direct communication with the officers charged with the preparation of the statements. (G. I., R. & A., No. 12-10-13, dated 9th February 1886; *vide* G. R. No. 20-2, dated 16th March 1886.)

3. For the purpose of Imperial compilation uniformity is indispensable. No modifications in the forms of the returns of agricultural statistics submitted to the Government of India which have not been specially authorized can therefore be permitted; and where deviations from the prescribed headings are unavoidable under existing circumstances, efforts should not be spared to gradually eliminate them. There is no objection to the amplification or modification of the forms for provincial purposes. On the contrary, it is most desirable that these returns should be utilised to the fullest extent in administration reports, the headings being expanded or re-arranged as may be necessary. By this measure the labour now devoted to the separate and independent compilation of statistical returns for provincial reports dealing with agricultural subjects will be minimised; the discrepancies which frequently exist between the two sets of returns and detract from the value of both will be obviated; and the examination and discussion to which the figures will be subjected in provincial reports will provide the Government of India with the materials, now wanting, for a review of the Imperial tables. The opportunity is at the same time taken to remind Local Governments and Administrations of the express desire of Her Majesty's Secretary of State, that the information in provincial reports and returns regarding crops and other agricultural matters should be as full and detailed as the means at disposal will allow.

Instructions for the compilation of the forms are given in the shape of foot-notes, but there are some points which call for supplementary remarks and are dealt with in the following paragraphs:—

Form A 2 (1).—Forests.—To provide for the case of lands legally declared to be forests or administered as forests under any legal enactments other than Forest Acts it has been necessary to enlarge the definition of the heading. Care should be taken that the areas of Government forest included in this return are obtained from the same source as the areas exhibited in the reports on forest administration.

Form A 2 (3).—Culturable waste other than fallow.—Owing to the extreme variations which have been found to exist in the period for which land is left fallow, the heading "Culturable waste other than fallow" has been substituted for that formerly proposed, *viz.*:—

"Culturable, but not cultivated for three years."

Form A 3 (1 to 30).—Details of Crops.—After careful consideration it has been decided to

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add *rāgi* or *mandva* (*Eleusine coracana*) to the new crop heading adopted on the recommendation of the Delhi Conference. This is as important a food-crop in Southern India as is barley in Northern India, and the Government of India desire that where the area cultivated with *rāgi* is not already recorded separately, the alterations necessary in the village returns of crops to secure these statistics may be introduced as soon as convenient. If, for reasons of real importance, the statistics of any crop included in the statement cannot be separately given, the corresponding column may be left blank, but the reasons for omission should be fully explained. Alterations in the standard crop headings of the Imperial return cannot, for the reasons already stated, be allowed, though the forms may be expanded or modified at the discretion of Local Governments for provincial purposes.

Form A 4.—Stock, &c.—The headings added in this return to those previously suggested are *young stock* and *camels*. *Pigs* have been omitted. Special importance is attached by the Government of India to the correct compilation of the information required for columns 1 to 5, which involve the separate classification of animals whose milk is valuable, and of young apart from adult stock.

The provincial returns are, with the following exceptions, due to the Government of India* on the 1st November of each year and should be punctually submitted by that date:—

	1st instalment on the 1st December.	2nd instalment on the 1st February.
Bombay	... Forms A, B and E	... Forms C and D.

No uniform period can be prescribed for the year to which the statistics should relate, but the Government of India desire that Forms A and B should be compiled for the recognized agricultural year of each province.

No general review of the statistics is required with the returns; but all differences in excess of 20 per cent. between the figures of the year of report and the previous year should be explained in an appendix to the tables in the form prescribed. Where general causes sufficiently account for differences, detailed explanations need not be given.

(G. I., R. & A., Nos. 19-20, dated 20th July 1891, 36-36, dated 29th July 1892, and 538-3, dated 15th February 1893; *vide* G. Rs. Nos. 5802, dated 25th August 1891; 7090, dated 6th September 1892 and 1639, dated 2nd March 1893.)

4. In compiling Form C of the Agricultural Statistical Returns, the Director of Land Records

* Under later instructions (*vide* G. I., R. & A., No. 15-53-6, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1895) these returns are to be forwarded to the Director General of Statistics.

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and Agriculture should exclude the revenue on account of "fallows" from column 8 thereof. (G. R. No. 5173, dated 23rd June 1892.)

5. The returns of agricultural statistics for the Bombay Presidency should be submitted to Government in duplicate in the forms* prescribed by the Government of India in their letter No. 51-41, dated 17th October 1892. Should the number of columns provided in the form prove insufficient, they may be increased by the addition of fresh sheets; but in no case should the arrangement of the forms be altered. To facilitate the compilation of the Imperial returns the arrangement of districts, except in so far as they may be inevitably affected by territorial changes, should be the same in all the returns and in the returns of every year. Whenever further supplies of the printed forms are required by the Director of Land Records, an indent for them should be submitted through the Government of Bombay. (G. R. No. 8937, dated 12th November 1892.)

6. For the purposes of the returns of agricultural statistics the Director of Land Records and Agriculture should collect statistics differentiating between the various classes of irrigation. (G. I., R. & A., No. 3513-41, dated 12th December 1892; *vide* G. R. No. 1606, dated 1st March 1893.)

7. In Form A 1, column 2 (a), the area of Feudatory and Tributary States may be shown as returned for the General Administration Report of the Presidency. (G. R. No. 5785, dated 15th July 1892.)

8. There is no objection to the insertion in red ink between headings 2 (a) and 2 (b) in Form A 1 of figures showing the areas of British districts after excluding Native States of all kinds. (G. I., R. & A., No. 1418-8, dated 9th May 1893; *vide* G. R. No. 3932, dated 30th *idem*.)

* Not printed.

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PART IX.—AGRICULTURAL IMPLEMENTS.

1. Provincial Agricultural Departments are permitted to obtain the agricultural implements and machinery they require direct from the makers in England or America, provided that the consequent expenditure in each province does not exceed Rs. 4,000 and that the orders are confined to articles required for purely experimental purposes. (S. of S. No. 34, Finl., dated 19th June 1834; *vide* G. R. No. 6689, dated 19th August 1834.)

2. In order to facilitate the introduction of agricultural implements suitable to the agricultural circumstances of the country, it is desirable that there should be annually published a general list of agricultural implements which have in any province been found useful, or which can be recommended for trial by any Agricultural Department or institution in the country.

The list should be prepared for the year ending 30th September, and should be published as an Appendix to Chapter V (Scientific and Local Enquiry under Provincial direction) of the Annual Report of the Department of Lands Records and Agriculture.

On receipt of the provincial lists a combined statement will be prepared and published in the supplement to the *Gazette of India* and otherwise circulated. In any province in which an agricultural department has been organized, arrangements should be made to procure for experiment any implement which has been found satisfactory in any other part of India, provided that there is *prima facie* reason to believe that it is in any way adapted to the agricultural circumstances of the province. Any such implement should be included in the provincial list for the year in which the experimental trial is made, and the results of the trial should be entered in the column of remarks.

To ensure uniformity in the lists, the following points should be observed :—

- (i) No implements in general use among native agriculturists should be entered otherwise than in the case of any exceptionally useful implement which is believed not to be in use in other parts of India.
- (ii) Improved or patented implements already recommended, or of which the utility is already established (*e. g.*, the Behua Sugar Mill, the Kaiser Plough, &c., &c.) need not be entered, unless—
 - (1) they have undergone modification, or
 - (2) defects have been discovered, or
 - (3) they have been for the first time introduced into the province during the year under report, or
 - (4) their sale has considerably extended.

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In the last case the description of the implement need not be repeated.

(iii) In case the materials for the provincial list are obtained from lists supplied by a number of officers, the provincial list should be carefully revised in accordance with the above instructions, all unnecessary implements being excluded; and where several reports have been received regarding any one implement, their general purport should be summarised.

Information should be particularly supplied respecting any implement which is received with favour by native farmers or cultivators, and as to the extent to which the use of the implement is gaining ground. The opinion of native agriculturists should, whenever possible, be quoted. (G. I., R. & A., Nos. 17-A., dated 15th May 1882, 70-A., dated 15th September 1883, 12-A.-9-2, dated 16th February 1889, 59-A.—9-28, dated 2nd October 1889, and 13-72-16, dated 3rd May 1899; *vide* G. Rs. Nos. 3646, dated 6th June 1882, 7674, dated 15th October 1883, 1893, dated 9th March 1889, 7420, dated 2nd October 1889, and 3797, dated 31st May 1899.)

3. The officers reporting should submit the lists to the Director of Agriculture, who should cause a general list for the whole Presidency to be compiled in his office from the district returns and embody it as an appendix to Chapter V of his Annual Report with any remarks which he may himself have to offer. (G. Rs. Nos. 7000, dated 29th August 1885, and 3797, dated 31st May 1899.)

PART X.—BOTANICAL SURVEY.

1. The following territorial division of India is prescribed for the purposes of botanical survey :—

Under the Superintendent, Royal Botanical Gardens, Calcutta.

The Province of Bengal.

„ Assam.

„ Burma.

The Andamans and Nicobars.

North-East Frontier Expeditions.

Under the Government Botanist, Madras.

The Presidency of Madras.

The State of Hyderabad.

The State of Mysore.

Under the Principal, College of Science, Poona.

The Presidency of Bombay, including Sind.

*Under the Director, Botanical Department,
Northern India.*

The North-Western Provinces and Oudh.

The Punjab.

The Central Provinces.

Central India.

Rájputána.

North-West Frontier Expeditions.

It is desirable that the Sibpur Institution should, without any interference with the Provincial control over the Royal Botanical Gardens, Calcutta, be officially recognized as the acknowledged centre of the Botanical Survey of India, and that to it should be referred the solution of all problems rising out of the practical or scientific study of Indian botany. In view of the important position which the Superintendent of the Royal Botanical Gardens, Calcutta, will thus occupy as the central authority in the Botanical Survey of India, the Government of India have, with the concurrence of the Secretary of State, added to the designation of the Superintendent the official title of "Director of the Botanical Survey of India." In all correspondence dealing with subjects relating to general botanical exploration, the latter title should be employed.

In the Bombay Presidency a herbarium exists at the College of Science, Poona, and a botanical collection is in course of formation at the Victoria Gardens, Bombay. The former place is to be the headquarters of botanical research and collections, and the existing herbarium there is to be developed.

(G. I., R. & A., No. 5-57-1-A, dated 26th February 1891; *vide* G. R. No. 1923, dated 16th March 1891.)

2. In order to bring under general review, for the information of the authorities at Kew, the progress made from year to year in the Botanical Survey of India, it is desirable that all botanical officers should annually communicate to the Director of the

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Botanical Survey of India a report summarizing the operations of the year, so far as these are concerned, with investigation, collection or publication of materials of a purely scientific character. As little delay as possible should occur in the transmission of the report to the Director, who will incorporate it with his own report to the Kew authorities. The most convenient date for the communication of the report will be the 1st July, the report covering the operations for the financial year ending on the 31st March previous.

2. The officer in charge of the Botanical Survey of the Bombay Presidency should prepare the necessary report as regards the Bombay Presidency and send it direct to the Director of the Botanical Survey of India, by the prescribed date, copies thereof being, at the same time, submitted to Government for information. (G. I., R. & A., No. 547-62, dated 11th March 1893; *vide* G. R. No. 2992, dated 27th April 1893.)

3. The Government of India place definitely upon the Director of the Botanical Survey of India the responsibility of guiding the survey, and after such consultation with the botanical officers in Madras, Bombay and Northern India and the authorities at Kew as he may deem expedient, of giving directions as to the general character of the explorations, the subjects which are to be taken up and the form in which results are to be published. The main object of his directions should be to secure the gradual completion of the Botanical Survey of India on a systematic plan, but no instructions should be issued which are likely to involve the interruption of the executive duties of the botanical officers without the consent of the Government to whose orders they are subject. A copy of all such instructions, as may be issued by the Director, should, at the same time, be communicated to the Government of India and to the Provincial Governments concerned for information.

Any proposals made by the Director of the Botanical Survey of India for the improvement or perfecting of the survey, which involve fresh expenditure, should be submitted to the Government of India for consideration. (G. I., R. & A., No. 18-30, dated 12th May 1893; *vide* G. R. No. 4265, dated 14th June 1893.)

4. All applications involving a pecuniary outlay which the heads of botanical establishments may desire to address to the authorities at Kew, should not be sent direct, but should be forwarded in the usual way through the India Office. (S. of S. No. 76, Rev., dated 31st October 1883; *vide* G. I., R. & A., No. 1031-146-1, dated 5th December 1883, and G. R. No. 9538, dated 26th *idem*.)

5. All demands on the Royal Gardens at Kew for botanical information or for seeds should be made through the Central Botanical Institutions at Calcutta, Madras and Bombay. (S. of S. No. 86, Rev., dated 3rd November 1887; *vide* G. R. No. 766, dated 2nd February 1888.)

LAND RECORDS AND AGRICULTURE.] [PART XL.

PART XL—MISCELLANEOUS.

1. *Insects injurious to crops.*—Strict injunctions should be given to village officers to report the appearance of any locusts in the village lands *at once* to the Mīmlatdārs, who should without delay furnish information to the Collectors, and all possible measures should be taken to destroy the locusts when seen in April, May and June, which would seem to be their chief breeding season. (G. R. No. 2152, dated 15th March 1883.)

2. It seems necessary specially to impress on all officers concerned the vital importance of the prompt pursuit of the most energetic action for the destruction of the breeding locusts when first they appear in the months of May and June in any district or portion of a district. The destruction then of every female locust means that there will be in the following August or September some 90 or 100 young locusts less to be killed, or, if left unmolested, to eat up the crops and mar the prospects of the harvest. (G. R. No. 3632, dated 6th May 1884.)

3. Insects which injured crops should be caught and put into a small phial nearly filled with saw-dust and spirits of wine (or whisky and water in equal quantities). If a very small amount of corrosive sublimate is put into the mixture, the insects will be killed at once, and will not be damaged beyond identification. A small quantity of glycerine would improve the mixture by preventing the contraction of tissues. Corrosive sublimate is a rank poison and need not be used, if the insects are killed by ammonia or otherwise. If corrosive sublimate is used, the bottle should be labelled "poison." Only good specimens should be bottled.

In sending specimens for identification, officers should be requested to state what they can, of the manner in which the crops were attacked, where the insects are found, what climatic conditions appear congenial to them, and the like. (G. R. No. 1477, dated 16th February 1884.)

The Survey Commissioner and Director of Land Records and Agriculture is authorized to correspond direct with the Deputy Superintendent of the Indian Museum, and the Compiler of the *Conspectus of Insects affecting crops in India*, and assist that officer in the collection of the information required by him, keeping at the same time this Government informed of the progress made in the investigation of the subject.

(G. R. No. 2858, dated 22nd April 1883.)

4. *Weevil.*—The only cheap and perfect application for the prevention of the attacks of weevil upon corn and grain consists in the employment of bisulphide of carbon. The quantity required, provided the grain is kept in close vessels, is very minute—not more than 1½ lb. to each ton of grain, so that 8d. is the cost of preserving a ton of wheat. The bisul-

PART X.] [LAND RECORDS AND AGRICULTURE.

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LAND RECORDS AND AGRICULTURE.] [PART XI.

PART XI.—MISCELLANEOUS.

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phide leaves no disagreeable taste or smell behind, but the quality of the grain remains unimpaired. When bags are used instead of the iron cylinders specially prepared for use in the bisulphide process, the protective influence of this chemical soon ceases, and a fresh application of the bisulphide must be made. In either case this liquid is applied as follows:—A ball of tow is tied to a stick of such a length that it can be just plunged into the middle of the vessel containing the grain. The tow receives the charge of bisulphide like a sponge, and is then *at once* plunged into the sack or cylinder and left there, the mouth being tightly closed. When necessary, the stick may be withdrawn and the charge (of 1 oz. of bisulphide to 100 lbs. of corn) may be renewed. (Memorandum on the Preservation of Grain by Mr. A. H. Church, Professor of Chemistry in the Royal Academy of Arts, London, circulated with G. I., R. & A., No. 43-A-14-3, dated 15th August 1887; *vide* G. R. No. 6083, dated 9th September 1887.)

5. *Personal Assistant to the Director.*—Government have no objection to the proposal of the Survey Commissioner and Director of Land Records and Agriculture to make a fair proportion of his test inspection through his Personal Assistant. (G. R. No. 4055, dated 30th May 1895.)

6. *Correspondence with the Kew authorities.*—All official communications to the Director of the Royal Gardens, Kew, which are not of a purely formal character, should be addressed through the India Office. (G. I., R. & A., No. 102-90-8A., dated 9th November 1888; *vide* G. R. No. 8172, dated 7th December 1888.)

7. *Circle Book.*—The forms in the circle book, if carefully written up from year to year in accordance with the instructions appended to them, will save the Mámlatdárs and their establishments a great deal of the labour and difficulty they now have in collecting at short notice the statistical information required for preparing the appendices to settlement reports. They will also prove useful to Inspecting officers as showing in a compendious form all the principal facts connected with each village. (G. R. No. 5606, dated 3rd August 1893.)

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1. His Excellency the Governor General in Council desires that there may be no misunderstanding as to the views and wishes of the Government of India with respect to litigation in which the Government is concerned. In many parts of India the union of judicial with executive functions in one chief officer of a district is still, and may long be, inevitable; and His Excellency in Council trusts that all officers, who exercise this double power, realize the responsibility which it throws upon them for scrupulous observance of equity in all suits to which the Government which they serve is a party. To lean towards technical pleas in favour of Government, or towards technical obstacles against a suit which the Government defends, whenever such pleas or obstacles merely hinder a decision on the merits—to strain laws for the advantage of Government—all these things would be exactly contrary to the rule of judicial conduct which in such cases the Government desires to impose. And His Excellency in Council expects all officers to understand that the interests of Government are most effectually promoted by sedulously upholding this high standard of entire impartiality. (G. I., H. D., No. 832, dated 14th May 1873; *vide* G. R. No. 963, dated 21st February 1874.)

2. The reports of the Remembrancer of Legal Affairs in the matter of suits should be treated by the local officers to whom they are sent as strictly confidential documents. (G. R. No. 5120, dated 8th September 1875; *vide* also No. 69 of the rules for the institution and defence of suits.)

3. It should be clearly understood that all opinions and advice given by the Law Officers of Government for the conduct of the law business of Government are to be considered strictly confidential. (G. R. No. 1560, dated 27th March 1878.)

4. When expenditure is incurred for law charges, the sanction of Government should always be communicated to the Accountant General, who should exercise the same supervision over these charges as he does over all other charges. (G. R. No. 3244, dated 1st June 1876.)

5. In applications to Government for sanction to appeal, the date within which the appeal can be preferred should be invariably stated. (G. R., J. D., No. 4831, dated 7th August 1877; *vide* G. M. No. 4923, dated 13th *idem*.)

6. Government pleaders are not entitled to separate fees for such trivial miscellaneous duties as that of obtaining copies of papers for any Government officer or of searching for original papers. (G. R. No. 4985, dated 15th August 1877.)

7. In an appeal made to a District Court by a private individual, a question arose as to the suffi-

ciency of the court-fee on the memorandum of appeal, and as Government are interested in matters of stamp-revenue, the District Judge gave the Collector an opportunity of being heard, if he should wish, through the District Government Pleader. The Collector thereupon directed the Government Pleader to appear, and the question was disposed of by the Court against the appellant. But in the opinion of the Governor in Council it is unnecessary to direct the Government Pleaders to appear on behalf of Government in such cases. (G. R. No. 5395, dated 5th July 1884.)

8. The Oriental Translator to Government is authorized, when he receives a vernacular paper for translation which turns out to be a notice to Government under Section 424 of the Civil Procedure Code, to return it to the Secretariat at once without a translation, with a view to its being sent without delay, under No. 7 of the Rules relating to the defence of suits, to the proper officer, who will be able to ascertain in his own office what the notice relates to, and will make a report to Government only if there is occasion. (G. R. No. 1912, dated 13th April 1880.)

9. The following extract from a letter from the Remembrancer of Legal Affairs, No. 1460, dated 11th November 1885, was circulated to all Collectors for information and guidance :—

“I take the opportunity of respectfully suggesting that the attention of Collectors should be drawn to No. 8 of the Rules for the defence of suits against Government with regard to notices under Section 424 of the Civil Procedure Code. The object of the notice is to give every opportunity of full justice being done to a complainant before a suit is actually filed. Here the vague opinion of the district Government Pleader on the question of limitation, without any reference to any specific provision of the Limitation Act (an opinion which he afterwards qualified), was not sufficient ground for ignoring the notice. If a reference had been made on receipt of the notice, it is possible that the claim would have been compromised at once, and thus the costs of the suit would have been saved. This is not the first instance in which I have been led to the opinion that it would have been safer had a reference been made by the Revenue authorities on a law point before the filing of a suit.”

(G. R. No. 9369, dated 21st November 1885.)

10. The High Court, Bombay, has held that sending a newspaper containing notice amongst other matters is not such a notice as is required by Act X of 1877, Section 424. (High Court's Printed Judgments for 1881, p. 286.) (G. R. No. 962, dated 5th February 1886.)

11. It is not generally desirable that Collectors should accept as sufficient, for the purposes of the Civil Procedure Code, notices published in newspapers. (L. R. No. 809, dated 6th May 1892; *vide* G. R. No. 4803, dated 8th June 1892.)

12. No. 66 of the Rules relating to the conduct of civil suits is of general applicability, and the

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name of Government or of any Government officer ought not to be used in any civil proceeding without a reference being first of all made under it, whether the costs of the proceeding will eventually fall on Government or not. (L. R. No. 488, dated 20th April 1880; *vide* G. R. No. 2225, dated 27th *dem.*)

13. The rules regarding the conduct of suits should be understood as applicable to the Panch Maháls so far as the peculiar circumstances of that district will admit, and irrecoverable balances on account of pauper costs should not be written off without the previous sanction of Government. (G. R. No. 6980, dated 19th September 1883.)

14. The Collectors of the Kánarese Districts should be instructed that Kánarese documents of importance, which may be sent to the Remembrancer of Legal Affairs with reports on suits, should always be accompanied by their English translations. (G. R. No. 2702, dated 10th April 1889; *vide* also No. 72 of the Rules for the institution and defence of suits.)

15. It is absolutely necessary in all cases in which reports on suits are forwarded to the Remembrancer of Legal Affairs for submission to Government, to state the date of the filing of the plaint, such information being indispensable for the consideration of questions of limitation and other points not perhaps obvious to the officer reporting. (G. R. No. 5373, dated 27th July 1889.)

16. The Commissioners of Divisions and Collectors should see that there is no avoidable delay in reporting on suits filed against Government or Government officers in their official capacity. (G. R. No. 5913, dated 14th August 1889.)

17. Officers reporting on suits requiring Government sanction for their defence, should furnish the Remembrancer of Legal Affairs with English translations of all vernacular documents essential to the merits of the case. (G. R. No. 1883, dated 12th March 1890.)

18. The following extract paragraph 5 of the Legal Remembrancer's report No. 96, dated 22nd January 1891, was forwarded to all heads of offices under the Revenue Department for information and guidance:—

“5. I would ask that Government might be pleased to issue orders that officers in reporting on suits should invariably state the date on which the plaint was filed in Court. In this instance the date was not given, and no mention was made of the point of limitation in the defence proposed. Accordingly, in submitting my report for sanction of the defence, I assumed that the point could not be raised, but if the date of the filing of a suit is not stated, either delay will be entailed in obtaining further information from the officer concerned, or an important point of defence will be liable to escape notice.”

(G. M. No. 814-A, dated 30th January 1891.)

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19. Whenever it is proposed to take the objection that a plaintiff has not exhausted his rights of appeal, the whole of the proceedings should be furnished with necessary translations to enable the Remembrancer of Legal Affairs to advise whether any right of appeal remained unexhausted. (G. R. No. 1840, dated 11th March 1891.)

20. With a view to avoiding the vexation and expense of unnecessary litigation, the officers concerned should, in forwarding reports on cases where dispute as to the title to land is concerned, invariably send a plan or map of the land in dispute and its surroundings. (G. R. No. 10140, dated 28th December 1892.)

21. The following opinion No. 694, dated 19th October 1875, was recorded by the Remembrancer of Legal Affairs:—

“With reference to Government Resolution No. 5808, dated 14th instant, I have the honour to report that the case put by the Magistrate of Thana is as follows:—

The Magistrate of a District having on appeal reduced the amount of a fine inflicted by a Subordinate Magistrate on a person convicted by him of an offence, directed the excess to be returned to the accused. But a judgment-creditor of the accused caused the Subordinate Magistrate to be served with a notice from a Civil Court for the attachment of the excess before the Subordinate Magistrate had time to issue the necessary order to the Treasury Officer for the payment of it to the accused person.

The Magistrate asks:

- (1) Can the Civil Court's order take effect?
- (2) Should the Subordinate Magistrate obey the Civil Court's order in preference to the District Magistrate's?
- (3) Should the order of attachment not be served on the debtor himself instead of on the Subordinate Magistrate or the Mamlatdār (Treasury Officer)?

“2. The Magistrate seems to regard the Subordinate Magistrate's order as illegal so far as it imposed a fine in excess of that which subsequently, on appeal, the District Magistrate considered to be sufficient, and, therefore, to hold the view that the detention of the excess amount by the Subordinate Magistrate, or by the Treasury Officer, was *ab initio* illegal, and that the money must be considered to have been all along in the accused's possession. But the determination of the amount of fine that should be inflicted upon a person convicted of an offence is a matter of legal discretion. If the Subordinate Magistrate did not exceed the lawful limits of his powers, his sentence was perfectly legal, although perhaps he failed to exercise sound discretion in passing so severe a one. I do not think, therefore, that the question of the legality of the Subordinate Magistrate's sentence can affect the questions which the District Magistrate raises as to the attachment of the excess money.

“3. I am of opinion that the Magistrate's first two questions should be answered in the affirmative, and with regard to the third, that the proper course for attaching the money was for the Civil Court to issue a notice under Section 237 of the Civil Procedure Code to the Subordinate Magistrate or to the Treasury Officer. The money became the property of the accused person as soon as the District Magistrate's order was passed for its repayment to him and so long as it remained in the hands of the Subordinate Magistrate or, subject to his orders for its disposal, in the

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hands of the Treasury Officer, it was liable, I think, to be attached like any other money held in trust.

(G. R. No. 6156, dated 1st November 1875.)

22. The following decision of the High Court of Bombay (Judgment in Miscellaneous Special Appeal No. 7 of 1877) laying down that Article 167* of Schedule II, Act IX of 1871, does apply to applications made on behalf of Government under Section 309† of the (old) Civil Procedure Code for the recovery of pauper costs, and that a previous application for execution of the decree made by the actual plaintiff in the suit does not give Government a fresh starting point from which to calculate the period of limitation, was circulated to all officers concerned in order that care might be taken not to allow applications for pauper costs to be neglected until they are time-barred:—

* Cf. Article 179 of Schedule II, Act XV of 1877.

† Cf. Section 411 of the Civil Procedure Code, 1852.

“Section 300 of the Civil Procedure Code of 1859 directs that ‘on the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same in the same manner as costs of suit are recoverable.’ In this case the original decree of the Subordinate Judge containing an order directing the payment of the court-fees by the pauper plaintiff was made on the 15th April 1868, and was finally affirmed in this Court on the 28th July 1869. The present application to the Collector to enforce the payment of these fees was made on the 25th November 1875, so that upwards of three years have elapsed since the date of the affirmance of the decree which contained the order for the payment of the fees. The District Judge, while holding that Article 167 of Schedule II of Act IX of 1871 prescribes the period of limitation which is applicable to such a case, yet is of opinion that an application by a defendant, made within three years before the 25th November 1871, for execution in respect of the costs of suit decreed to him, is the terminus whence the period of limitation (three years) should begin to run. We, however, think that the application to enforce or keep in force the decree or order mentioned in the 4th clause of Article 167, which gives a fresh starting point, is an application by the party himself seeking execution or by a party in the same interest as he who presently seeks the enforcement of the decree, and not an application by a party whose interest under the decree is totally unconnected with that of the person seeking present enforcement. The interest of the defendant Apaji Govind in the costs awarded to him by the decree is not in anywise connected with that of the Collector on behalf of Government in the court-fees which the pauper plaintiff has been directed by the same decree to pay. The activity of that defendant was not exhibited in the remotest manner on behalf of Government, but solely on behalf of himself. In the cases in 8 Calc. W. R. 100 Civ. Rul. and 1 Beng. L. R. 62 App. Side, the early and later applicants appear to have been either jointly interested or in the same interest, and so also in the case in 9 Calc. W. R. 485, so far as we can understand the meagre report of it. We think that the right of Government to recover court-fees under Section 309 is subject to the same period of limitation as the right of a subject to enforce a decree or order would be. The Legislature in passing the Limitation Act of 1871, which is applicable to this case, where it intends that Government should have a longer period than the subject, has been careful expressly to say so: as for instance, in Article 150 of Schedule II, where the period

assigned to suits brought by the Secretary of State is sixty years from the time of the accrual of the cause of action; but the Legislature makes no difference between Government and its subjects in the cases of appeals or application

(a) As to the distinction made in the Act (IX of 1871) between suits, appeals and applications, see *Govind Laxman v. Narayan Moreshwar*, II. Bom. H. C. Rep., 111. *tion (a)*. We fully recognize the authority of *Ganpat Pataya v. The Collector of Kanara* (Ind. L. R., I Bombay 7), but that case relates to priority of execution, and has no bearing upon the present question of limitation. Holding, as we do, that the present application of the Collector is barred by Article 167 of Schedule II of Act IX of 1871, we must reverse the orders of both of the Courts below and reject the application with costs throughout.

“ We are aware of the explanations annexed to Article 179 of the new Limitation Act (XV of 1877), which article is the enactment therein analogous to Article 167 of the Act 1871, but we have arrived at our decision quite independently of any aid from that quarter.”

(G. R. No. 7519, dated 20th December 1877.)

23. The following opinion No. 1060, dated 10th August 1893, was recorded by the Remembrancer of Legal Affairs :—

<p>In the Court of the First Class Subordinate Judge, Surat.</p> <p>Darkhást No. 113 of 1893 in Miscellaneous Pauper Application No. 78 of 1888.</p> <p>Ranchod Mortr... .. Applicant.</p> <p>Bejanji Edalji Opponent.</p>	<p>Commissioner, N. D., recommends an appeal from the order passed by the First Class Subordinate Judge, Surat, on the application noted in the margin.</p>
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“ 2. The facts are as follows :—

(a) Ranchod Morár applied for leave to sue as a pauper.

(b) The application was opposed by the District Government Pleader on notice given under Section 408 of the Code of Civil Procedure, as well as by the opposite party against whom the suit was to be brought,

(c) On the hearing of this application the Court, at the instance of all the opponents, required the applicant to give security for opponents' costs, and one Vanmálidás Dayáram passed a surety bond accordingly on 19th September 1889.

(d) On 20th November 1889 the Court passed the following order :—

‘ Since the applicant does not wish to proceed with his application, I reject his application to be allowed to sue *in forma pauperis*, and order him to pay the costs of the opponents and bear his own.’

(e) The decree, originally silent as to the persons to whom costs should be paid, having been so amended under Section 206 of the Code of Civil Procedure as to bring it into conformity with the order, an application (Darkhást No. 113 of 1893) was made to recover the costs incurred by Government in opposing the application for leave to sue as a pauper.

(f) This application was rejected for reasons fully stated by the Subordinate Judge whose order dated 26th July 1893 is among the papers.

(g) The principal grounds given for the rejection of the order are :—

(i) that the surety bond was taken under Section 380 of the Code of Civil Procedure, and that it is doubtful whether such a bond could be taken before the petition had been numbered and registered as a suit,

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(ii) that neither the Collector nor the Government Pleader was a defendant,

(iii) that the surety bond, though accepting liability for the costs of the opponents, does not specify who the opponents are.

"3. Against this order it is now proposed to appeal.

"4. The case at I. L. R., VI Bom., 590, shows that no appeal would be admissible in such a case under Section 214 (c) of the Code of Civil Procedure, as the Collector is no party to the *suit*, while it seems equally clear from the decision at I. L. R., XV Bom., 77, that an appeal might be entertained under Section 622.

"5. I consider, however, that an appeal from the order passed would most certainly fail.

"6. The surety bond purports to have been taken because the applicant resides out of British India and possesses no property within British India. '*For this reason*,' it states, 'the Court has required the applicant to give security for the opponents' costs.'

"7. Now it is clear from Section 380 of the Code of Civil Procedure that a surety bond may be taken for such reason '*at the institution or at any subsequent stage of a suit*.'

"8. But it is also clear—

(a) that an application to sue as a pauper until it has been granted, does not amount to '*the institution of a suit*,'
Section 480, Code of Civil Procedure, and vide also I. L. R., 10 Bom., 207.

(b) that there is no authority under Chapter XXVI to take such a bond in an enquiry into the pauperism of an applicant under that chapter, and

(c) lastly, that the Legislature contemplated as a distinct question the recovery of costs incurred by Government in resisting such application.

Thus—

(a) if adjudication follows

(i) when plaintiff succeeds, Section 411 applies ;

(ii) when plaintiff fails, Section 412 applies ;

(b) if an order or refusal is made under Section 409 and the application is rejected, Section 413 applies, from which it will be seen that

(i) if the applicant drops the suit, the Code is *absolutely* silent as to costs, presumably on the ground that the applicant was really too poor to carry it on, while

(ii) if the applicant chooses to sue in the ordinary manner he is at liberty to institute a suit, *provided that he first pays* the costs, if any, incurred by Government in opposing his application for leave to sue as a pauper.

"9. The remedy, if any, in this case lies therefore, I think, *not* against the surety, but under Section 413 of the Code of Civil Procedure, in case the applicant, whose application has been rejected, brings a suit in the ordinary manner, and in that event the District Government Pleader should move the Court to require him before the suit is entertained to pay the costs incurred by Government in opposing his application for leave to sue as a pauper.

"10. I would beg to recommend that the District Government Pleader be instructed accordingly.

* * * * *

"12. I doubt whether the remedies I have indicated above in case of pauper costs are generally understood, and Government might perhaps deem it desirable, if they concur in my view, to have this opinion circulated so as to avoid mistakes and facilitate recovery in cases of this nature, in which, as

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Government are probably aware, attempts at recovery are so commonly infructuous."

(G. R. No. 6319, dated 31st August 1893.)

24. It is a frequent practice and often a necessary one for the Collector to agree with judgment-debtors (whether the judgment-debt be on account of pauper costs or under an ordinary decree) to allow them to pay what is due by them to Government gradually in fixed instalments. Such agreements must, under Section 275A of the Civil Procedure Code, in every case be made with the sanction of the Court which passed the decree; otherwise they are void. When payments are made in accordance with such agreements out of Court, the debtors are entitled, under Section 258 of the Civil Procedure Code, to have those payments certified to the Court. If default is made in any payment, execution of the decree should be applied for in the usual course, the agreement being regarded as a modification and *not* as a supersession of the decree. A separate suit will not lie upon the agreement. (L. R. No. 162, dated 4th February 1892; *vide* G. R. No. 1110, dated 13th idem.)

25. As regards *all* appeals to Her Majesty in Council in which Government are interested, the Secretary of State should in each case be furnished with a distinct expression of the opinion of the Government transmitting the papers as to the course which ought to be adopted by him. It not unfrequently happens that the papers reach the India Office unaccompanied by any clear indication of the steps which it is desired the Secretary of State should take, and it is necessary that he should always receive such an indication for his assistance in arriving at a decision in the matter.

These instructions should be strictly observed in cases to which Government or the Court of Wards are a party. When an appeal, to which a Municipality is a party, is preferred to the Privy Council, the duty of making arrangements for the conduct of the case must be undertaken by the Municipality concerned; and the information and papers required by the* letter from the Government of India in the Home Department, No. 1-119, dated 30th January 1878, should be forwarded to the India Office only in cases to which the Government or the Court of Wards are a party. (G. I., H. D., No. 1274, dated 9th September 1889; *vide* G. R. No. 8067, dated 23rd October 1889.)

26. The Accountant General should, in consultation with the Legal Remembrancer and the

* * With reference to the action to be taken in this country and the instructions to be given to Council, it is important that this office should be made acquainted with the views of the different Governments from whose Courts appeals may be brought either by or against the Crown, and with the opinions of their local advisers; and even as regards the mere procedure of the Appellate Court, it is to be observed that the absence of information as to the transmission of the record places the Government

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Solicitor to Government, furnish an annual statement of the recoveries effected in this Presidency in respect of costs in Privy Council appeal cases for transmission to the Government of India at the end of each calendar year. The statement should be sent in time for transmission to that Government not later than 1st February. (G. R. No. 231, dated 28th January 1881.)

27. The only powers which exist of issuing a Commission in a criminal case are those contained in Chapter 40 of the Code of Criminal Procedure, and those powers do not include that of issuing a commission to England for the examination of witnesses there. (Adv. Genl., No. 106, dated 18th October 1892; *vide* G. R. No. 8370, dated 25th *idem*.)

at a disadvantage, and might lead to the dismissal of one of its appeals for want of prosecution, or to a decision *ex-parte* against the Government as respondent.

* * * * *

"I request further that in all appeals, to which the Government is a party, from provinces under the administration of your Government, the fact of the transmission of the appeal should be communicated to this office, with such information regarding it as you consider desirable, in order that proper steps may be taken for protecting the public interests."

Paragraphs 7 and 10 of the Secretary of State's Despatch No. 49, Judicial, dated 13th December 1877, to the Government of India; *vide* G. I., H. D., No. 1-119, dated 30th January 1878. (G. R. No. 919, dated 11th February 1878.)

LOCAL FUND CESS.

1. Railway Companies like all other landholders are liable to local taxation, and they should pay the Local Fund Cess on the amount of rent payable to Government for lands held by them. (G. R. No. 2544, dated 3rd July 1868.)

2. The Local Fund Cess should be levied on the amount of rent fixed under existing rules on lands transferred to Railway Companies. (G. R. No. 2391, dated 20th April 1876.)

3. In the case of all farms that may be given in contract, the obligation to pay the one-anna cess under the Local Funds Act III of 1869 should be stipulated for. (G. R. No. 1483, dated 10th April 1869.)

4. Only such items of Sáyer revenue as are farmed are liable to the one-anna cess leviable under Section 6 of the Bombay Local Funds Act No. III of 1869. (G. R. No. 1639, dated 20th April 1869.)

5. The levy of cesses on excise under the Bombay local Acts should cease, and it must be understood that the term "Sáyer" in the Bombay Acts VIII of 1865 and III of 1869 is equivalent only to "Miscellaneous Land Revenue," and includes no assets classified in the public accounts under any other head whatever. (G. I., F. D., No. 617, dated 27th January 1873, and 3169, dated 24th September 1873; *vide* G. R. Nos. 681, dated 6th February 1873, 5650, dated 11th October 1873, and 1996, dated 7th April 1873.)

6. Savastháns held on political tenure are subject to the payment of the one-anna cess. (G. R. No. 2728, dated 6th July 1869.)

7. Lease-holders of villages are liable to the one-anna cess on the amount of the revenue payable to Government under the lease. (G. R. No. 3706, dated 30th June 1873.)

8. Holders of alienated villages have not the right to levy more as Local Fund Cess from their rayats than they themselves pay to Government on account of that cess. In unsurveyed villages the revenue fixed as the total annual assessment as settled for the purposes of summary settlement, must, for the purposes of the Local Fund Act, be held to be the land revenue on which the cess can under the Act be levied, and neither the Collector nor the Jághirdár has the power to levy more. The Collector should not only abstain from giving assistance to collect, but should warn the rayats of Jághirdári villages that they are not to pay more to the Jághirdár than the amount of his assessment. (G. R. No. 5339, dated 8th October 1874.)

9. A Jághirdár who had obtained agreements from his tenants binding them to pay as Local Fund Cess sums in excess of the amounts actually payable by them in respect of their holdings, filed suits

on these agreements, and the Subordinate Judge of Bijápur decreed his claim thereon. He then petitioned the Collector for an order to enable him to obtain the assistance of Revenue officers in recovering these claims.

(2) The Collector of Bijápur considered that the agreement, on which the Jágirdár insisted, was void under Section 24 of the Contract Act (IX of 1872), and that the Subordinate Judge's decision was therefore wrong. But this view is not quite correct. No doubt, under Bombay Act III of 1869, Section 8, the right of the Jágirdár to make such recoveries *as arrears of land revenue with the assistance of Revenue officers* is strictly limited, in the case of each tenant, to the amount leviable by law as Local Fund Cess in respect of that tenant's holding.

(3) The Act gives the special power and privilege, and defines the limits to their exercise. It would, therefore, be illegal for a Revenue officer to assist the Jágirdár in recovering more than that Act authorizes by the special procedure of the Bombay Land Revenue Code (Sections 86 and 87 of Bombay V of 1879).

(4) Such contracts would not extend the powers of Revenue officers to give their assistance for recovery. The Jágirdár, therefore, could not enforce such contracts without recourse to the Civil Courts.

(5) But there is nothing in Section 8 of Bombay Act III of 1869 which makes it unlawful for any one to pay more or to contract to pay more than the law would oblige him to pay, or more than could be recovered by the special summary procedure there prescribed.

(6) Such a contract could not, therefore, be regarded by a Court as void under Section 24 of the Contract Act, on the ground that its object was unlawful.

(7) If there were any room for doubt as to the lawfulness of the object, the only way that the question could be raised would be by an appeal made by the tenants themselves. But there is clearly nothing unlawful in an undertaking to pay money. Possibly a tenant might raise the question whether there was any consideration for such an agreement. The Court would then probably consider that the mere mention of the Local Fund Cess as the nominal reason for the addition to the rent, would not materially distinguish the case from that of an ordinary agreement to pay so much rent in a lump sum without distinguishing or specifying the items. The contract might be successfully impugned of course, if undue influence, misrepresentation or coercion were shown. Such objection would have to be taken by the tenants in Court. But if the tenants have entered into the contract with their eyes open, there is nothing to prevent the plaintiff from enforcing the contract in a Civil Court, although the contract would, by no means, entitle him to recover from his tenants, as Local Fund Cess, with the assistance of Revenue officers, more than he could recover under the Act (Bombay III of 1869, Section 8) without such contract.

LOCAL FUND CESS.]

(8) To sum up—

(a.) The contract is not void, as for an unlawful object, but would apparently be enforceable in a Civil Court, unless shown to be void for want of consideration, misrepresentation or undue influence.

(b.) The contract does not give the Jágírdár any right to recover with the assistance of Revenue officers any more than he could before.

(L. R. No. 503, dated 16th May 1889; *vide* G. R. No. 4013, dated 3rd June 1889.)

10. In cases of inám villages which have been surveyed without the consent of the Inámdárs, the Local Fund Cess should be levied on the amount settled for calculating the quit-rent under the Summary Settlement Act and not on the amount fixed by the Survey. (G. R. No. 4189, dated 24th July 1875.)

11. An *Udhar* jamábandi village is not an inám village. The rule should be that Local Fund Cess is to be levied on the jama of an *Udhar* jamábandi village. (G. R. No. 4745, dated 20th August 1875.)

12. Whatever may be the judi on inám lands in khálsa villages or the mode of calculating it, Local Fund Cess has to be levied upon the assessment, whatever that may be. (G. R. No. 6547, dated 23rd November 1875.)

13. In alienated villages in all cases where there is no legal objection to the levy of the Local Fund Cess on the kamál, this should invariably be done, except in instances where there is a very wide difference between the jama and the kamál. Such cases may be treated exceptionally and the difference treated as a remission. (G. R. No. 888, dated 11th February 1881.)

14. The wording of Section 6 of Act III of 1869 is only intended to provide for no fresh imposition of the cess during the currency of a term of years for which the settlement may be made after the passing of the Act. (G. R. No. 3364, dated 14th August 1869.)

15. The one-anna cess is leviable on the following items which are credited to land revenue:—

1. Sale-proceeds of grass in waste land.
2. Sale-proceeds of grass in kuráns.
3. Ground rent on lands sold as building sites.
4. Proceeds from sales of melon beds by river sides.
5. Proceeds from sales of alluvial deposits on the banks of rivers let for purposes of cultivation from year to year.
6. Assessment on Gairán land when used for purposes of cultivation.

[LOCAL FUND CESS.]

7. Proceeds from sale of mango fruit in Bagsheri land.

8. Sale-proceeds of fruit trees on waste land.
(G. R. No. 3589, dated 25th August 1869.)

16. In the case of lands held by village officers whose services are retained for the use of the State, the one-anna cess should not be levied. In all other cases the one-anna cess is to be levied not on the judi which may be payable, but on the full survey or kamál assessment. (G. R. No. 4258, dated 4th October 1869.)*

17. Excess lands held by Patels on payment of half assessment, which are not assigned to them as their private property, but which form a part of their service watans and cannot be alienated, are exempt from the payment of the one-anna cess. (G. R. No. 4940, dated 30th August 1876.)

18. It would be illegal to apply to the Local Fund Cess the rule adopted in the realization of ordinary land revenue for getting rid of fractional divisions of an anna by striking out the amount altogether if it is under six pies, and by entering one anna instead, if the amount is in excess of six pies, and as it is undesirable to forego any income, pies should be retained in the Local Fund accounts. (G. R. No. 4988, dated 16th November 1869.)

19. So long as the taking of water from any source of irrigation and payment for the same are optional with the cultivator, the payment cannot be looked upon in the light of "ordinary revenue" and should be exempted from payment of the one-anna cess. Where payment for water as a part of the land revenue, whether it be brought to account under the separate heads of water and dry-crop assessment or not, is compulsory, it should be held liable to the cess. (G. R. No. 1506, dated 23rd March 1870.)

20. In the case of salt-pan lands the levy of the Local Fund Cess is to be restricted to revenue derived from the ground according to the bigoti or acre system. (G. Rs. Nos. 2637, dated 4th June 1870, and 2865, dated 16th idem.)

21. Tenants of an inámdár holding lands on fixed *kauli* rents are liable to pay the Local Fund Cess on the survey assessment that may be newly fixed on the lands and not on the *kauli* rents actually paid by them to the inámdár. (L. R. 458, dated 25th May 1898; *vide* G. R. No. 3865, dated 10th June 1898.)

22. The one-anna cess is to be levied on the gross revenue for collection, and no deductions are

* On revision of assessment, all service inám lands of every head, whether those of village officers or servants and whether held by officiators or others, are liable to pay the one-anna cess on their survey valuation. (G. R. No. 7651, dated 28th December 1877.)

LOCAL FUND CESS.]

to be allowed on account of remissions.* (G. R. No. 3079, dated 26th June 1871.)

23. All grass and grazing of the Forest Department which may be farmed is according to law subject to the Local Fund Cess. It is only in the case of the Imperial Reserved Forest Tracts that the levy of the one-anna cess from the lessee of the grazing rights is inadmissible under the orders † of the Government of India. In all other cases, whether the land is under the management of the Revenue or Forest Departments, the cess is leviable from the lessee. (G. Rs. Nos. 3040, dated 26th June 1872, 476, dated 28th June 1873, and 3535, dated 20th June 1873.)

† G. I., A. R. & C., Nos. 636, dated 28th April 1873, and 656, dated 10th June 1873.

24. Bábul kurans in charge of the Forest Department cannot be held to be "Imperial Reserve Forest Tracts" and the one anna cess is consequently leviable. (G. R. No. 539, dated 31st January 1874.)

25. Purchasers of forfeited occupancies sold at once should not be required to pay one anna in each rupee of the price realized to Local Funds, nor should one anna in the rupee of the whole sale-proceeds be credited to local cess. But as the one-anna cess is chargeable on arrears of assessment and recoverable as land revenue, the sale-proceeds of such lands should be credited in accordance with Section 183 of the Land Revenue Code—

- (a) to expenses of sale,
- (b) to arrears of—
 - (1) land revenue,
 - (2) one-anna cess,

the surplus, if any, being paid to the defaulter. (G. R. No. 2002, dated 10th March 1883.)

26. Local Funds have no legal claim to compensation for losses due to the development of the Forest Department. In the first place it is to be observed that under the Bombay Local Funds Act of 1869 it is lawful for Government, but not obligatory on Government, to levy a cess for local purposes. Secondly, the cess is leviable on the survey assessment paid by occupants or enjoyed by grantees and on the sums payable by farmers of land or sayer, that is, a cess is a tax on the subject, and is not leviable on land which is in the hands of Government and not of an occupant or grantee, or let to a farmer. Any sums given by Government to a District Local Fund are voluntary contributions and not payments rendered obligatory by law. If it happened that any lands included within forest

* In cases in which (1) the temporary postponement of a portion of the demand which constitutes a progressive assessment is dealt with as a remission and (2) when the demand is reduced with prospective effect in consequence of alluvial action, a corresponding portion of the demand for the current year is formally remitted, the revenue is not due, and the cess is not therefore leviable. (G. of I., R. A., No. $\frac{26}{28-13}$, dated 3rd December 1895; vide G. R. No. 28, dated 3rd January 1896.)

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limits are assessed and cultivated by occupants, the cess should be levied from the occupants and paid over to the District Fund. The cess may fairly be levied from the farmer when in protected forest a farm is given of the grazing of a definite area or of any miscellaneous produce coming within the meaning of *sáyer*. And it is reasonable that the Forest Department should from its own funds co-operate with District Local Funds by constructing and maintaining roads and bridges and similar works within forest limits. This is actually done. But any attempt to compensate Local Funds for items of receipt withdrawn at the discretion of Government would be merely a complicated method of doing what can be done much more simply by grants from the public revenue. It must not be overlooked that Government are largely increasing their grant to primary education to the direct benefit of Local Fund revenue and the extra grants made in this way are likely in the next few years greatly to exceed the receipts which have been transferred to the Forest Department. Nor can it be admitted that the Forest Department is analogous to a private concern worked for profit. The department is established for the public benefit, its administration is costly and the expenditure is always tending to increase. It is both reasonable and convenient to treat as receipts of the Forest Department any monies which accrue from the lands which it is deemed proper to place under the management of the department for purposes of conservancy. (G. R. No. 9094, dated 18th November 1884.)

27. The cost of all lands provided whether for the temporary or permanent use of Railways falls either immediately or ultimately on Government, and in these circumstances the capitalization of the Local Fund Cess on such lands would amount to a bonus to Local Funds at the expense of public revenues and is inadmissible on the principles laid down in Government Resolution No. 9094, dated 18th November 1884. (G. R. No. 7887, dated 26th October 1893.)

28. The Local Fund Cess cannot be levied on simple sales of trees whether the sale-proceeds are credited to Forests or to Land Revenue. The cess can be charged only on the ordinary land-revenue assessment and on sums payable by farmers of land or *sáyer* revenue other than *ábkári* the levy of the cess on which the Government of India disallowed. The claims of the Local Funds under these heads have been recognized even within Forests by Government Resolution No. 9094, dated 18th November 1884, and the levy should not be extended to items of revenue which are clearly not taxable within the meaning of the Act. (G. R. No. 9993, dated 19th December 1884.)

29. The Local Fund Cess should be calculated on the amount of the revised assessment actually for collection. (G. Rs. Nos. 3694, dated 7th May, and 5050, dated 19th June, 1885.)

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30. Looking to the manner in which Bombay Act III of 1869 has been amended by Bombay Act I of 1884 and especially to the fact that the references in it to the older revenue law have been changed throughout to references to the Bombay Land Revenue Code, the term "superior holder" in Section 8 of Bombay Act III of 1869 is to be interpreted not according to the definition of that term in Bombay Act I of 1865, but according to the definition in the Land Revenue Code.

Section 8, Bombay Act III of 1869, enacts that "the provisions of the law relative to the assistance to be given to superior holders for the recovery of their dues from their tenants * * * shall be applicable to all superior holders * * * in respect of the recovery of this cess from their tenants"; and when it is enquired what law is here referred to it is now-a-days found in Sections 86 and 87 of the Land Revenue Code, in which the term "superior holder" is governed by the definition of it given in that Code. On this ground also the term "superior holder" in Bombay Act III of 1869 may be held to have the same meaning as in the Land Revenue Code. No special meaning is attached to it in Bombay Act III of 1869 and the enactment which is referred to with respect to it is therefore the one in which its meaning must be sought.

(L. R. No. 256, dated 17th February 1888; *vide* G. R. No. 2072, dated 4th April 1888.)

31. The words of Section 6 of Bombay Act III of 1869 are that Government may levy a cess of "one anna on every rupee that is assessable to the ordinary land revenue." These words do not apply to any sums, however the same may be calculated, which is paid to Government for the extinction in perpetuity of their right to levy land revenue. Such sums, even if they be credited in the Government accounts to land revenue, are not 'ordinary land revenue.' (L. R. No. 261, dated 24th March 1887; *vide* G. R. No. 2452, dated 23rd April 1887.)

32. In future the payment or the redemption of the Local Fund Cess should, as a rule, be made a condition of the transfer of lands on redemption of assessment except in the case of Railway Companies. (G. R. No. 2452, dated 23rd April 1887.)

33. The law in Sind † for the levy of the one-anna cess is practically the same as in the rest of the Presidency. The law for both Sind and the rest of the Presidency authorizes the levy of that cess—

†In the case of the Jāghirdārs (Beluch Chiefs) of the Upper Sind Frontier District, the levy of hakabo and the local cess has been postponed as a matter of favour and during good behaviour and for so long as may seem proper to Government in regard to the circumstances of the district and the particular estate; *vide* G. Rs. No. 1171, dated 25th February 1881, and 9406, dated 21st December 1883.

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- (1) from all lands with certain exceptions; and
 (2) from every farmer of land or sáyér revenue.

In the former case the cess is to be 'one anna on every rupee that is assessable to the ordinary land revenue;' in the latter it is to be one anna 'on every rupee that is payable by the farmer * * * in respect of his farm.' With regard to the farmer, the language is clear enough. He is to contribute to the Local Fund a sum equal to $\frac{1}{4}$ of the amount he pays for his farm. The word 'farmer' must be read in its ordinary acceptation as meaning a person who, for remuneration, collects taxes; so that in the Local Fund Acts it means a person who undertakes, for a consideration to collect 'land revenue' or 'sáyér revenue.' The term here used is not 'ordinary land revenue' but 'land revenue' generally, so that a farmer of any item which goes to swell the land revenue is liable to pay the cess. 'Sáyér revenue' is a technical expression and according to the usual rule must be interpreted in the 'sense in which it is understood in the * * * business in which it has acquired such sense,' unless there is reason for holding that it was used by the Legislature in a popular or wider sense: Maxwell on the Interpretation of Statutes 2 and 51.

(L. R. No. 467, dated 22nd April 1887; *vide* G. R. No. 3290, dated 26th May 1887.)

34. It is safest to construe the words "farmer of land or sáyér revenue" as meaning a person who for remuneration collects such revenue. To say that the word "farmer" is to be taken as the equivalent of *makedár* so as to include purchasers of kurans and other rights sold at auction, is to put a strain on its wording which it will hardly bear. Moreover, it appears to be useless to put this construction on the words in question, as it seems much simpler to ascribe to contract the liability which a purchaser at an auction incurs for the payment of Local Fund. Even if this liability is not published in the notice of sale, the custom is now so thoroughly well established that all sales (other than those under the Ábkári Act) of which the proceeds are credited to land or sáyér revenue are, it is believed, subject to it; and therefore any purchaser who bids or offers Rs. 16 is bound by implied contract to pay an extra rupee for Local Funds, and although the Local Fund Board may not be entitled to claim the amount as a legal right Government has the power to place it to its credit (*vide* clause (g) of Section 44 of Bombay Act I of 1884) and does so by its recognition of the custom.

(2) It seems then that the interpretation given in the Legal Remembrancer's report No. 467, dated 22nd April 1887, of the words "farmer of land or sáyér revenue" leads to no real difficulty or loss of Local Fund revenue. From farmers of revenue properly so called the cess is leviable under the Act. From purchasers of grass, &c., it appears due by contract. No advantage is to be gained by endeavouring to extend the former class so as to include the latter.

LOCAL FUND CESS.]

And it appears undesirable to strain the meaning of words in an Act in a manner not likely to command general acceptance, nor to lead to any very practical result.

(3) The connection between the word "assessable" and "assessment" as commonly understood in connection with the land revenue and the use of the words "ordinary land revenue" in Section 6 of the Bombay Local Funds Act, 1869, suggests the conclusion that it was meant to restrict the levy of Local Funds to one anna on every rupee assessable as ordinary land revenue on the land. But it is also arguable that by the words "every rupee assessable to the ordinary land revenue" it was intended to mean "every rupee liable to be placed to the account of the ordinary land revenue" and that in order to ascertain to what items this referred it would be necessary to consider what was known as "ordinary land revenue" in the account system in force in 1869. Other items besides assessment on land are credited to land revenue, and having regard to the practice that has always prevailed of levying Local Fund on such items it cannot be held that the word "ordinary" before the words "land revenue" has the effect of limiting the phrase to assessment on land. If assessment on land, tree-tax, and a number of other items are commonly designated "land revenue" in the accounts, it is not very easy to see why the assessment alone should be considered "ordinary." It is no doubt the form of land revenue most widely prevalent, but in particular localities, it is believed, other items are equally "ordinary." It may be urged that this view deprives this word of all effect, but this does not necessarily follow, as there may be items of an unusual character which cannot properly be treated as ordinary land revenue.

(4) There is an old maxim for the construction of laws "*optimus interpret usus.*" And in discussing this subject, Maxwell in his work on the Interpretation of Statutes says: "The meaning publicly given by contemporary or long professional usage is presumed to be the true one even when the language is hardly doubtful." In the present controversy this rule may advantageously be applied; custom in dealing with this Act seems by now to have assigned a meaning to the words "ordinary Land Revenue", wider than that of the expression "assessment on land," and there would be no advantage in attempting to limit that meaning.

(5) It seems probable then that, without straining the meaning of the word "farmer," the levy of Local Funds on most of, if not all, the items in respect of which it is at present levied can be justified either on the wording of the Act as interpreted by custom or on the basis of contract, express or implied; and if in regard to any single item any doubt is felt in any particular instance it can be decided when it arises. It seems difficult and dangerous to lay down any general rule applicable to all items.

(L. R. No. 1251, dated 15th September 1887; *vide* G. R. No. 5033, dated 15th July 1889.)

LOCAL FUND CESS.]

35. Irrigation miscellaneous

1. Fines for cultivating, without permission, lands which are within the limits of Irrigation Works and pertain to the Public Works Department.
2. Sale-proceeds of grass grown on lands within the limits of Irrigation Works.
3. Proceeds of grazing in do.
4. Proceeds from sales of melon beds by margins of Irrigation Tanks.
5. Proceeds from sales of alluvial deposits on margin of Irrigation Tanks let for purposes of cultivation from year to year.
6. Sale-proceeds of fruit trees on lands within the limits of Irrigation Works.
7. Rent of portions of lands taken up in connection with Irrigation Works and let for cultivation.
8. Proceeds from fisheries in connection with Irrigation Works.
9. And other miscellaneous receipts.

receipts on account of the items noted in the margin recovered by the Collector or the Executive Engineer and credited to the Public Works Department cannot be regarded as items of "Ordinary Land Revenue," and Local Fund Cess cannot,

therefore, be levied on them. (G. R. No. 6959, dated 2nd October 1890.)

36. Mámíatdárs are authorized to order refunds of Local Fund Cess up to Rs. 5 whether on account of the current or previous year, and Assistant and Deputy Collectors up to Rs. 10. (G. R. No. 4581, dated 26th June 1893.)

MEMORIALS AND PETITIONS.

1. When the result of a petition to Government is its rejection, the petitioner should be informed of the fact from the Secretariat instead of being referred to the Commissioner for an answer to his petition. (G. R. No. 1064, dated 13th March 1862.)

2. Malicious petitions cannot be kept secret from the person maligned, without risk of great injustice to him. They may be so couched as to do permanent and serious injury by the slander they convey, and unless they are communicated to the person slandered, all chance of discovering or exposing the slanderer is lost, while the slanderer soon learns whether the object of his attacks has or has not heard of them; and if he believes his proceedings remain secret, he is encouraged to proceed to further lengths in the same line.

In future, petitions of this kind will always be sent with a demi-official autograph note from the Secretary to Government. (G. L. No. 1731, dated 25th April 1865.)

3. When a specific charge with names and other details is stated in a petition against a Government servant, it is only fair to the party charged to make enquiry; even if the petition be merely read, it must make on the reader an unfavourable impression, and it is only just to take any steps which may tend to show the real truth or falsehood of the charge. (G. L. No. 86, dated 6th January 1866.)

4. Where petitioners are not conversant with the English language, they are bound to adopt measures to assure themselves that the petitions or memorials to Government in that language are couched in respectful and becoming terms. (G. R. No. 6297, dated 20th October 1877.)

5. Petitions to Government should be addressed either to the Governor in Council or to a Secretary to Government and not to a Member of Council personally. (G. Rs. Nos. 887, dated 19th February 1880, and 7908, dated 27th December 1881.)

6. (I.)—An address, the sole or principal object of which is to promote or oppose a measure of Imperial legislation, or one which bears immediately upon general questions of Imperial policy, may be submitted direct to the Governor General in Council.

(II.)—When the object of an address is to induce the Governor General to give his assent to, or to withhold his assent from, a law passed by a Provincial Legislature, it should be transmitted through the Local Government concerned.

(III.)—An address intended to obtain the reversal of an executive act, or one which bears directly upon the executive action of a Local Government, should be transmitted through the Local Government in respect of whose action complaint is made. This

procedure should be followed in all cases in which the jurisdiction to be exercised by the Government of India is of an appellate character or necessarily involves a reference to the Local Government.

(IV.)—In the case of an address relating to a law passed by a Provincial Legislature, it will be convenient that a copy of the address should simultaneously be sent to the Governor General. In other cases it will be at the option of the writers to send direct to the Government of India duplicates of representations submitted to the Local Government.

Rule I must be read with, and be held to be subject to, Rule 14 of the Rules for the Conduct of the Legislative Business of the Council, which relates to Bills actually pending before the Council of the Governor General for making Laws and Regulations, and is as follows :—

Communications on matters connected with any Bill before the Council may be addressed either in the form of a petition to the Governor General in Council, or in a letter to the Secretary, and must in either case be sent to the Secretary. Ordinarily such communications will not be answered.

Except in the case of the High Court at Fort William, such communications from Courts, officials, or public bodies *shall ordinarily be sent through the Local Government.*

(G. I., H. D., Nos. 12-408-424, dated 16th March 1883, and 20-697-713, dated 21st May 1883; *vide* G. Rs. Nos. 1365, dated 4th April, and 2114, dated 8th June 1883.)

7. In supersession of the rules promulgated under Government Notification dated 26th March 1877, His Excellency the Governor in Council is pleased to publish for general information the following amended rules for the preparation and submission of petitions to Government :—

1. Except in the cases of parties whose rank may entitle them to correspond with Government through Vakils, petitions to Government made by or through agents will be left unnoticed.

2. Petitions will be received, either through the Post Office or in a box which will be affixed for the purpose outside the Secretariat door, and which will be opened daily (Sundays and public holidays excepted) by the Secretary, Separate Department, and the petitions distributed to the different Departments of the Secretariat. When sent through the Post Office, postage must be invariably paid.

3. Anonymous petitions will be disregarded.*

4. All petitions to Government should be written as concisely as the nature of the case admits of. If they are found to be unnecessarily prolix, or to be couched in unintelligible, exagger-

* The Secretaries to Government may file or destroy anonymous petitions at their discretion: *vide* G. R., G. D., No. 2394, dated 11th July 1893.

ated or disrespectful terms, they will be returned for amendment to the parties submitting them.

Petitions of appeal preferred by parties to civil and political suits should invariably be submitted in English. Petitions on other matters may be either in English or in any of the vernacular languages of this Presidency. Those written in any of the vernacular languages, when not accompanied by English translations, will be rendered into the latter language by the Oriental Translator to Government before being placed before His Excellency the Governor in Council; but manuscript petitions in the Modi character in which the words are not properly separated, and the sentences punctuated wherever necessary by means of the marks shown in the margin, will be returned to the senders to be re-drafted.

Full stop |
Mark of interrogation. ||

5. Petitions will not be received by Government regarding any matters which form the subject of judicial proceedings in the Courts, or which properly fall within the jurisdiction of the Courts; nor will Government receive petitions containing complaints relating to the administration of civil or criminal justice, under circumstances which leave other modes of obtaining redress open under the regulations.

6. The mode and channels through which all ranks of the Military Service should make known any complaint or grievance to superior authority are clearly laid down by the Regulations of the Service, and are in no respect affected by these rules.

7. Applications for situations in the gift of local or controlling authorities, or for admission into the public service, will remain unnoticed by Government.

8. Any persons having cause of complaint against the proceedings of any officer of Government, Civil or Military, is, in the first instance, to seek redress from that officer's immediate superior, who, if he declines compliance, is to give the petitioner a written endorsement, or order, setting forth the grounds upon which the request is refused. If the petitioner is dissatisfied with this order, he is at liberty to address the chief local authority, and eventually the superior Civil or Military authority, by whom the chief local officer is controlled, or, in the event of there being no such intermediate controlling authority, the Government.

9. The preceding rule is not to be interpreted as precluding chief local or controlling authorities from using their discretion regarding the presentation, direct to themselves, of applications and complaints which have not been previously submitted to officers subordinate to them.

10. The Government, however, will not receive a petition on any matter, unless it shall appear

that the petitioner has already applied to the chief local authority; and, where such exists, to the controlling authority. The petitions to the chief local and to the controlling authorities, or copies of them, and the answers to, or orders upon those petitions, in original, must be annexed to all petitions addressed to Government. Petitions by telegraph will in most cases violate this rule and will not generally be answered or attended to.

11. Petitions to Government from persons in the service of Government relating to any matter affecting their official position will not be entertained unless forwarded through their official superiors.

12. The Government, after passing a final order on appeal made to them, will not notice a second petition on the same subject unless new matter requiring especial consideration be introduced.

13. When a petition is to be returned as not being drawn up or presented in conformity to the preceding rules, it will be endorsed with a memorandum specifically pointing out which of the rules has been infringed.

14. The foregoing general Regulations for petitions are applicable in the Military Department to the following classes:—

1st.—Persons not in the public service residing within the limits of Military Bázárs; Camp Followers.

2nd.—Contractors for Military supplies.

3rd.—Military Pensioners.

4th.—Persons having claims on Government in any Military Department, either on their own account or on account of services rendered to the State by deceased relatives.

(G. Ns., F. D., Nos. 316, dated 27th January 1885, 200, dated 27th January 1886, and 1063, dated 14th April 1886.)

8. Whenever any petitions submitted to Government through the Commissioners are found to be couched in disrespectful terms they may be returned by them for amendment to the parties submitting them under the operation of Rule 4 of the Petition Rules published in Government Notification, Financial Department, No. 316, dated 27th February 1885, as amended by Government Notification No. 200, dated 27th January 1886. (G. R. No. 8063, dated 23rd October 1889.)

9. All original papers accompanying petitions should be returned by the Oriental Translator to Government to the writers when communicating to them the orders passed by Government on such petitions. (G. R. No. 6700, dated 18th August 1885.)

10. Copies of the following letter from the Government of India, Home Department No. 298, dated 26th February 1886, were forwarded to all departments of the Secretariat for information with refer-

once to the interpretation placed on *Rule XII (3) of the Rules relating to the transmission of memorials to the Home Authorities :—

“1 am directed to acknowledge the receipt of your letter No. 867, dated the 11th instant, forwarding a list of memorials to the address of Her Majesty's Secretary of State which had been withheld by the Bombay Government during the quarter ending 31st December 1885, under the discretionary power conferred on Local Governments by Rule XII, Clause 3, of the Rules relating to the Transmission of Memorials to the Home Authorities. The particular memorials thus withheld were presented by certain officers of the Forest Department who sought for a reconsideration of the decision of the Secretary of State declining to extend to them the benefits of the improved pension rules sanctioned for certain officers in the Public Works and Telegraph Departments.

“2. In reply I am to say that the particular clause in the Memorial Rules under which these memorials have been withheld has not been hitherto interpreted by the Government of India in the sense attached to it by the Bombay Government, and that the Honourable the President in Council does not think that the memorials in question should be withheld inasmuch as they are not understood to be ‘second’ memorials within the meaning of that clause. In any case, however, as the Government of India has under consideration the question of the transmission to the Secretary of State of similar memorials received from Forest officers serving under other Governments, it would be convenient if the memorials were forwarded to this office. I am accordingly to request that, with the permission of His Excellency the Governor in Council, this may now be done in accordance with Rule IV of the Memorial Rules.”

(G. R. No. 852, F. D., dated 25th March 1886.)

11. The decision of the Government of Bombay is final under the Hereditary Offices Act III of 1874, and memorials addressed to the Government of India appealing against such decisions may be withheld in accordance with the discretionary power vested in Local Governments under clause 8, Rule 3 of Section III of the rules regarding the submission of memorials to the Government of India published under Home Department Notification† No. 1812, dated 11th October 1889. The orders of the Government of India contained in their letter ‡No. 631-R-

+ Republished under G. D. Notn. No. 4321, dated 16th October 1889.

* XII.—Governments and Administrations in India are vested with discretionary power to withhold the transmission of memorials addressed to Her Majesty or to the Secretary of State in the following cases :

* * * * *

(3).—When a second memorial is presented after a decision has already been given by the authority to which it is addressed, and when no new facts or circumstances are adduced which afford grounds for a reconsideration of the case. A memorial addressed to Her Majesty by a person whose appeal to the Secretary of State has already been rejected, shall be held to be a second memorial to the same authority and shall not be transmitted.

‡ Extract from the letter from the Government of India, No. ^{631-R}₃₂₇₅, dated 15th September 1885. (G. R. No. 8675, dated 26th October 1885):—

“The Government of India has carefully considered the suggestion made in the last paragraph of your letter that in cases in which appeals are preferred against the decision of the Local Government upholding in review the orders of the Collector.

3-275, dated 15th September 1885, requiring all such cases to be submitted to that Government are no longer in force so far as they are inconsistent with the rules of 1889. (G. I., R. & A. No. 478 R-2-2, dated 30th January 1890; *vide* G. R. No. 1341, dated 19th February 1890.)

12. The Bombay Government may under Rule XII (6) of the rules for the submission of memorials to Her Majesty the Queen-Empress of India or to the Secretary of State for India published in Home Department Notification No. 707, dated 29th March 1878, withhold memorials addressed to the Secretary of State which are merely appeals against decisions passed by it under the Bombay Hereditary Offices Act III of 1874. (G. I., R. & A., No. 2187-206, dated 27th September 1892; *vide* G. R. No. 8962, dated 14th November 1892.)

passed in accordance with the Bombay Hereditary Offices Act of 1874, His Excellency the Governor in Council should be empowered to withhold such appeals. A somewhat similar suggestion was made in your letter No. 4780, dated the 22nd July 1882, in reply to which the wish of the Government of India was expressed that the existing principle requiring all memorials addressed to the Government of India to be transmitted by the Local Government should be maintained. The Government of India is still of opinion that the observance of this rule is desirable. This decision has been adopted, not because any necessity for interference is contemplated, but because if the Local Government declines to transmit a memorial, the applicant may not improbably submit it directly to the Supreme Government, which then would have to deal with it without the advantage of such remarks as to its admissibility or otherwise as might have been made by the Local Government.

"I am to take this opportunity of stating, for the information of His Excellency in Council, that in accordance with what is believed to be the existing practice, if memorials addressed to the Government of India are mere appeals against judicial decisions of the ordinary Civil Courts or of executive authorities exercising their powers of such Courts, they need not be sent on; but if they contain other matter, such as complaints or remarks upon the conduct of the Courts concerned, or on the working of any particular law, they should not be withheld. These orders do not apply to such appeals against judicial decisions in criminal cases as are practically appeals for mercy or pardon. Appeals of this nature should invariably be transmitted."

MINORS' ESTATES.

1. When the duty of taking charge of a minor's estate devolves upon a public servant in his official capacity it is a public duty and in no sense a private work, and as a general rule no charge should be made to the estate for the services of any public officer so employed, except under the special orders of Government previously obtained.

It may be that a public officer so situated may, on certain occasions, be called upon to undertake a journey beyond the local limits of his charge in the interest of a minor's estate which he would not be otherwise called upon to do, and on such occasions, which are likely to be of rare occurrence, it might be equitable to allow him at the expense of the estate the same travelling allowance to which he would be entitled if called upon to leave his district on Government business; but no such charge should be imposed on an estate under the management of any Government servant in his public capacity without the direct sanction of Government accorded previous to the undertaking of any such journey. (G. R., P. D., No. 801, dated 16th February 1874: *vide* G. M. No. 943, dated 20th *idem*.*)

2. Under Section 34 of Act VIII of 1890 (Guardians and Wards Act) *all guardians other than Collectors*, are bound to render accounts to the Court. It is immaterial whether the money is in the Government treasury or not; indeed as a general rule it will be more for the minor's interests if it be kept in a bank or invested. Apparently, the only case to which this ruling does not apply, is that in which a Collector is appointed as administrator, and his proceedings are subject to the control of the superior Revenue authorities, and not of the Civil Court. In such cases Government are willing to leave it to the discretion of the Collectors as to how the money should be invested. It need not necessarily be brought into the public accounts. (G. Rs. Nos. 3182, dated 24th October 1874, and 3884, dated 23rd December 1874.)

3. A Collector should not have two purses or cash balances in his treasury, and accordingly all money that is paid into a treasury should pass through the public accounts.

Moreover, whenever it is necessary to remove money belonging to a minor's estate from the estate treasury, it must be placed in the public treasury and not elsewhere.

* "A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

"When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by general or special order, directs." (Section 23, Guardians and Wards Act, VIII of 1890.)

It is not, however, necessary that all collections from a minor's estate should be paid into the treasury of the Collector of the district, merely because the estate may be under the Collector's management. Money which is not paid into the Collector's treasury should not pass through the public accounts. (G. I., F. D., No. 1872, dated 30th June 1875: *vide* G. R. No. 2323, dated 23rd July 1875.)

4. The cost of managing* a minor's estate must be borne by the estate itself, and only the balance of income, after deduction of expenses, can be available for the *sávkárs* to whom the estate may be indebted. (G. R. No. 6232, dated 4th November 1875.)

As regards estates managed by the *Tálukdári* Settlement Officer, it was directed in paragraph 3 of Government Resolution No. 4164, dated 28th August 1871, that the charges that would fall on the estates were to be levied according to a percentage on all receipts from estates under direct management. This order was passed with regard to the estates of *Tálukdárs* and *Thákurs*, but there is no reason why it should not be applied to all estates put under the management of the *Tálukdári* Settlement Officer and it should accordingly be applied. (G. R. No. 8550, dated 2nd November 1895, para. 2).

5. As regards the conduct of experiments and the introduction of improvements in estates under the management of the Court of Wards, the Famine Commission in paragraph 13, Part II, Chapter IV, Section II, of their report gave expression to the views which they had formed on this subject in the following terms:—

“The estates of minors and other legally incompetent persons, which are under the management of the Court of Wards, have been spoken of as affording a proper field for the introduction of agricultural improvements into the country. The principle which should govern the conduct of Government in respect to these estates should be, in our opinion, that the managers it appoints should not make use of their position to carry on merely experimental farming, but should act as an enlightened but prudent landowner would act in respect to his own property, *by utilising the results of science and adopting any well-tested and clearly demonstrated improvement, either by works for adding to the permanent value of the estate, or by the adoption of improved methods of farming.* When, therefore, any improvement in the method of cultivating or preparing any staple crop, or of rearing cattle, or in the construction of implements, *has been proved to be successful,* it might without objection be introduced to the people and popularised by means of its adoption on such estates, but it would obviously be unjustifiable to make

* It has been laid down in G. R., F. D., No. 3679, dated 6th November 1890, that all correspondence indirectly connected with a minor's estate and not of an official character should bear ordinary postage stamps, the cost being defrayed from the estate, and that when the correspondence relates only indirectly to the minor's affairs, as when the order of Government or other higher authority are sought on points of procedure, or when an enquiry is on foot, which is practically one into the conduct of officials connected with the administration of the estate, as also when the District Court is addressed, service stamps should be used and no recovery made from the estates.

MINORS' ESTATES.]

their owner responsible for the cost and risk of carrying experiments which the Government would not undertake itself."

The Secretary of State for India, in despatch No. 65, dated the 11th July 1881, confirmed the caution implied in the words noted by italics in the above extract, by desiring that wards' estates "should not be made fields for experiments, or their surplus income applied to any purposes of which the results are uncertain."

*The Governor General in Council entirely concurs in the principles to which expression is given in the extract quoted from the report of the Famine Commission, subject to the limitation which the despatch of the Secretary of State very properly imposes. It will be recognised that the practical application of these principles will differ according to the conditions and circumstances of every estate which is brought under the administration of the Court of Wards in different provinces; and accepting, as a rule, that no experiments will be attempted the success of which may not reasonably be expected, and that no schemes involving large expenditure will be undertaken the results of which are uncertain, the Government of India would leave it to each Local Government to consider in what way effect can most advisedly be given to the suggestions brought forward by the Commission.

At the same time the Governor-General in Council views with disfavour the policy of hoarding up in Government securities, or other close investments, profits which are made on Court of Wards' estates under the careful management of Government officials, in any case where, subject to the conditions referred to, these can be more usefully applied to the improvement and development of the agricultural resources of the estate. (G. I., R. & A., No. 12-125-134, dated 30th August 1881: *vide* G. R. No. 5688, dated 29th September 1881).

6. Friends or relatives who are not legally constituted administrators or managers of the estates of minors or lunatics have no power to act in any way for such minors or lunatics, and the Collector would not be justified in accepting a notice of relinquishment or agreement to occupy from such friends or relatives. (G. R. No. 7074, dated 11th October 1882.)

7. In the case of lands held by minors which they wish to resign absolutely, the best plan appears to be to remit the land revenue when the Collector is satisfied that the land has not been cultivated only because the occupant being a minor is not legally able to resign it himself and has no legal guardian to act for him, but intends to resign it as soon as he is able. (Para. 2 of G. R. No. 2407, dated 22nd March 1883.)

8. It is desirable that Collectors in charge of estates of minors situated partly in British territory and partly in Native States should administer the latter as well as the former portion. They should

do so by means of non-official paid agents after obtaining recognition of their function by the Native State Administration which will doubtless be ready to offer all reasonable assistance when addressed for that purpose. This order does not refer at all to Native Chiefs whose estates during a minority would never be in charge of a Collector under the Minors' Act. (G. Rs. Nos. 4657, dated 20th June 1883, and 5626, dated 30th July 1883.)

9. There are certainly objections to the assessment being remitted on land which a minor is at present unable but intends eventually to relinquish. In cases, therefore, when it is obviously not for the benefit of the minor to retain the land, the Collector should simply forfeit the occupancy and remit the land revenue; when it is not so obvious, the Collector should apply to the Civil Court for the appointment of an administrator, and if the administrator when so appointed reports that it is for the benefit of the minor not to retain the land, he should with the consent of the Civil Court relinquish it on behalf of the minor, and then the Collector should remit any land revenue due thereon. (G. R. No. 8078, dated 5th September 1885.)

10. There is no reasonable ground for preventing minors whose estates are under the management of Government officers from having the benefit of Savings Banks. (G. R. No. 1412, dated 20th February 1886.)

11. The practice of leasing minors' estates should not be adopted except for special reasons. In all cases the estates should be subjected to a careful examination and registers of lands and tenures made and, where cash rents are taken, the assessments must be fixed. (G. R. No. 8735, dated 11th December 1886.)

12. Collectors in charge of minors' estates, who may require legal advice, should in all ordinary cases consult local pleaders whose services should be paid for out of the estates. As a general rule they ought to employ the Government Pleaders as a matter of convenience. These are usually competent men, and in any case in which Government was ultimately obliged to intervene, the employment of another pleader might occasion practical difficulties. At the same time Collectors are not absolutely restricted to the Government Pleaders. They are primarily responsible for the management of the estates, and there might be reasons in any particular case which would induce a Collector to consider it undesirable to employ the Government Pleader. It would be impossible to lay down beforehand definite rules as to the fees to be charged by the latter, and if he were given the absolute monopoly of this class of work, difficulties might arise as to the amount of his remuneration. It is left therefore to the Collector to choose his own pleader subject to the understanding that, in the absence of any sufficient cause to the contrary, he should select the Government Pleader; thus no

difficulties would probably arise, as the charges made would necessarily be based on the scale of fees usually claimed by other members of the profession for similar services. Rule 56* of the rules regarding the remuneration and duties of law officers which requires Government Pleaders to advise local officers concerning Government business cannot be considered applicable to private estates under management. If consulted about these, Government Pleaders are entitled to be paid.

Although the Collector should generally employ his own pleader, it must be remembered that Section 15† of Act No. XX of 1864 makes his proceedings subject to the control of the superior Revenue authorities. This section throws on Government certain responsibility for his acts and justifies him in consulting Government and asking for advice in very difficult cases or in regard to matters on which he has reason to think the local opinion inadequate. (G. R. No. 1479, dated 3rd March 1888.)

† *Vide* Section 23 of Act VIII of 1890, and G. N. No. 1246, dated 16th February 1891, Order No. 10, *infra*.

13. The attention of all Collectors should be drawn to their responsibilities in connection with minors' estates and to the necessity that exists for a periodical examination of their accounts either by the Collector himself or by a trustworthy subordinate. (G. R. No. 8317, dated 31st October 1889.)

14. The extension of the period of limitation conceded to a minor by Section 7 of the Limitation Act on account of legal disability is not affected by the fact that during his minority he is represented by a guardian (4 Bom. H. C. Rep., A. C., 199; I. L. R., 4 Mad., 119). The section means that no limitation will apply to a case in which the person suing was disqualified by minority at the time the cause of action arose, provided the suit is brought within the extended period which it allows. A suit by a guardian on behalf of a minor is that of the minor and is governed by the Law of Limitation applicable to the minor; so that a guardian suing for his ward may bring his action at any time whilst the latter's disability continues, or if the guardian fails to bring a suit, the infant may bring one himself after he reaches majority (W. B., 1864, 302; I. L. R., 7 Cal., 137; I. L. R., 1 Cal., 226; 4 Bom. H. C. Rep., A. C., 199). (L. R. No. 807, dated 13th June 1890: *vide* G. R. No. 4486, dated 26th *idem*.)

15. With reference to Section 23 of the Guardians and Wards Act, 1890, the Governor in Council is pleased to appoint the Commissioner in Sind, and the Commissioners of the Northern, Central and Southern Divisions, as the authorities to whose control respectively the Collectors of that province and of those divisions shall, when appointed or declared by a Court to be guardians, be subject in all matters connected with the guardianship of their wards. (G. N. No. 1246, dated 16th February 1891.)

* *Vide* p. 481, Compilation of General Rules.

His Excellency the Governor in Council is pleased to appoint the Tálukdári Settlement Officer to be a Collector under sub-section 6 of Section 4 of the Guardians and Wards Act No. VIII of 1890 with respect to minors of the class of tálukdárs within the districts of Ahmedabad, Kaira and Broach, to whom clause (a) of sub-section (1) of Section 2 of the Gujarát Tálukdárs Act No. VI of 1888 applies. The Commissioner, N. D., should be declared the authority to whose control the Tálukdári Settlement Officer shall be subject in all matters connected with the guardianship of his ward. (Para. 1 of G. R. No. 4367, dated 11th June 1895.)

16. The Courts will be at liberty to appoint their Názirs by name, not office, as guardians when this appears expedient and to grant them such allowances under sub-section 1 of Section 22 as may be suitable. (G. R., J. D., No. 4719, dated 3rd September 1891.)

17. In reviewing the Madras Court of Wards Report for the year 1887-88, the attention of Her Majesty's Secretary of State was attracted to the large surplus balance of cash and securities remaining in the hands of the Court after 37 years' management of the Parlakimedi Estate. His Lordship observed that it might be of doubtful benefit to the young heir that he should come into possession of a large balance in cash and securities, as well as a fine estate with a substantial surplus revenue. High authorities, it was remarked, have said that the possession of a large cash balance is not unlikely to lead a young land-owner into extravagance and eventually to his ruin. In Bengal the Court of Wards has been in the habit of investing surpluses accumulated during the period of management in buying additional landed property. It was uncertain, however, whether this form of investment was possible in the case of Parlakimedi, and His Lordship suggested that, 'if good land investments are not to be had, it might be possible and advisable to invest such balances in a branch railway, or some other such work that would permanently benefit the estate and also yield a large and increasing dividend.' Instances were cited of the construction of railways by the Heads of Native States and Principalities to the benefit of their territories and the honour of their families, and His Lordship invited the Government of India to consider the desirability of facilitating the investments of accumulated wards' funds in a similar manner, and expressed his readiness to entertain favourably any project of law that might be required to give the Courts of Wards the necessary authority.

The despatch was circulated to Local Governments and Administrations, who were asked to favour the Supreme Government with their opinions as to the desirability of giving effect to His Lordship's suggestions, and as to the alterations in the existing law that might be required for that purpose. They were also requested to consider the advisability of employing the surplus funds of

wards' estates in the manner suggested, but in combination with neighbouring zamindárs or local capitalists and district boards; and whether, instead of branch railways, the Court of Wards might not in suitable cases undertake the construction of steam tramways, such as have been successfully worked in Northern Italy.

The only provinces in which the wards' estates are sufficiently numerous and important, and the funds which can be accumulated large enough, to enable practical effect to be given to the suggestions of the Secretary of State, appear to be Madras, Bengal, the North-Western Provinces, and Oudh. Except in Burma, where there is no Court of Wards, Local Governments and Administrations are generally of opinion that the powers conferred by the existing law are sufficient to enable them to take the necessary action; and, although there is reason, perhaps, to think that these powers are more restricted than the local authorities seem to imagine, still the Government of India are disposed to think that under the law as it stands the Courts of Wards are empowered to authorize the initiation of every kind of improvement calculated to promote the interests of the wards whose property it is their duty to administer.

The character of such improvements is limited by the canon that they must be for the direct advantage of the estate on which they are undertaken. This rule would include all such undertakings as are described in the definition of 'improvement' in the Land Improvements Loans Act. They would comprise, for example, all works of irrigation by which the rental of the estate would be augmented. And in the case of extensive estates, such as the larger zamindáris of Madras and Bengal, they might include branch railways or tramways, and navigable canals, as well as branch or feeder roads on smaller estates. In exceptional cases even hospitals or schools might perhaps be brought within the definition. Within these limits the desire of the Supreme Government is that the Courts of Wards should, up to the fullest extent which prudence will allow, spend the surpluses accumulating under their management upon the improvement of the estates, and so far as the restrictions placed by the law upon them as trustees permit, upon the amelioration of the condition of the tenantry.

The Governor General in Council, however, has gathered with regret from an examination of the Annual Administration Reports of the Courts of Wards and the reviews of them by the Local Governments and Administrations that the tendency is too often in the contrary direction. The principal cause of the hesitation to invest savings in improvements has doubtless been that caution which is but natural to and proper in a trustee fully conscious of his responsibilities towards his ward. It is, however, apprehended that another reason may be found in the preference of the trustee for the course which, if the safest, also gives the least trouble. It should

not be inferred that the Government of India fail in any way to appreciate the exertions of those officers to whose unremitting and well-directed labours are due the admirable results which have made the Court of Wards one of the most popular institutions in the country and have caused it to be regarded as the salvation of encumbered estates. It need not, however, be feared that the more frequent investment of surplus income on schemes of improvement, large or small, if undertaken for the benefit of the ward and his estate, upon careful deliberation and sound advice, would lessen the popularity of the Court in the eyes of the zamindárs. Such a course of action is, on the other hand, undoubtedly calculated to increase its usefulness and the respect entertained for it by the tenantry.

The Government of India, therefore, consider it desirable to suggest to Local Governments and Administrations that the Courts of Wards should be enjoined, before locking up surplus funds in Government paper or other securities, to ascertain by personal enquiry, reports from managers or otherwise, how far it may be possible to utilise such funds on improvements of direct benefit to the estate. In the case of the richer and more extensive estates, consideration may be given to large and comprehensive undertakings of the character suggested by the Secretary of State in his despatch, such as railways, tramways, tanks, or canals. The Government of India, however, recognise that less ambitious works of agricultural improvement, such as wells, minor distributaries, and roads, are more frequently needed and more within the capacity of the Court of Wards to prosecute with safety and prudence.

The inquiries made have led to some discussion regarding the investment of wards' funds in railways or similar undertakings for the general improvement of the district or province in which the estate is situated. The Government of India consider that investments of this character would not generally be justifiable: cases, however, might occur where, with some such security as a Provincial guarantee, the investment would probably be regarded in a Court of law as sufficiently sound to authorise such a use by a trustee of his ward's money. This has already, in the case of a local railway in one province, been held to justify the subscription of funds from estates under the Court of Wards.

But in the opinion of the Governor General in Council one of the most desirable and safest forms of investment for surplus funds may be found in the liberal supply of advances to cultivators upon the ward's estate, which may be made in the shape of either money, seed or cattle, on the security of long leases, and conditional on the payment of enhanced rent. This practice is already familiar to the people, and would, the Government of India believe, be the means of effecting on these estates, upon a large scale, improvements not only remunerative to the ward, but beneficial also to his tenantry, and would indirectly by the force of example, as well as directly

by increase of production, tend to enhance the efficiency of agricultural operations throughout the country. (G. L., R. & A., No. 2771-79-70, dated 31st December 1891: *vide* G. R. No. 477, dated 22nd January 1892.)

18. Section 17 (5) of the Guardians and Wards Act VIII of 1890 provides that the Court shall not appoint or declare any person a guardian against his will. The section next following provides that when a Collector is appointed or declared guardian by the Court in virtue of his office * * the order * * shall be deemed to authorize and require the person for the time being holding the office to act as guardian, &c.

Section 18 could be construed as a limitation of, and exception to, the proviso that precedes it, *only* if it would be impossible for both to operate fully.

Maxwell on Interpretation of Statutes, 186 et seqq., 2nd Edition.

But it is perfectly possible to read Section 18 as intended to authorize, irrespective, not of assent, but of change of office.

The inference that this was the *intention* of those who drafted the Act is confirmed from paragraph 5 of the Select Committee's report published in the *Gazette of India* (8th March 1890), page 78, Part V, as follows :—

"Section 17.—Sub-section 5 of this section makes it sufficiently clear that neither a Collector nor any other person can be appointed a guardian against his will."

"To require" is not "to direct", and though each successive Collector may be required to act as guardian and is thereby authorized so to act, if he does not object, he is with the approval of the Local Government entitled to his discharge on application under Section 40 (2) even though the appointment or certificate may have been under Act XX of 1864 (*vide* Section 50 of Act VIII of 1890.)

Act VIII of 1890 on coming into force governed all matters of procedure in proceedings then pending though commenced under Act XX of 1864. (L. R. No. 958, dated 18th June 1892: *vide* G. R. No. 5518, dated 6th July 1892.)

Maxwell on Interpretation of Statutes, 269, 270.

19. Sections 4 (6) and 40 of Act VIII of 1890 provide amply for the relief of Collectors in any districts, or in regard to any particular estates in which their position as guardians of minors' estates may prove unduly burdensome.

Any cases in which it may appear desirable to relieve Collectors of the work of guardianship, either by conferring powers on Assistant or Deputy Collectors under Section 4, or by taking action under Section 40, will be dealt with as they arise. So long as the Courts are bound under Section 40 to discharge a Collector from guardianship when Government approves of an application being made with that

object in view, it is immaterial whether or not a Court has power to appoint a Collector to be guardian without his consent. Any general dissociation of the Collector from the working of the Act is, however, undesirable not only because the work is better done and the interests of the minors are more secure under the guardianship of the Collector than would otherwise be the case, but also because it would go far towards destroying what remains of the Collector's traditional position as the centre of authority and general protector of the interests of the people in his district.

An amendment of the Land Revenue Code with the object of conferring on the Collector as guardian the powers which the Code gives him as a Revenue officer for the realization of revenue is not necessary or desirable. Any difficulty experienced by the Tálukdári Settlement Officer in collecting rents, &c., can always be met by the issue of commissions under Section 88 of the Land Revenue Code in respect of estates managed by him on behalf of the Collector as guardian. (G. R. No. 7724, dated 20th October 1893.)

20. Loans to landholders and notabilities apart from the provisions of any law constitute one of the classes of loans which may be made by Local Governments without reference to the Government of India. (G. of I. R. No. 13, dated 1st January 1889.)

Loans to landlords and notabilities contemplated in the Resolution of the Government of India quoted above are meant for loans that have in them some purpose of a public or political character. There are the strongest objections to loans being made from the public funds for objects that are of a purely private character, and were the Government to consent to make such loans, the claims upon them would be endless, and they would be interfering in business that is much better left to private lenders. It is also not right that the appointment of a Government officer as guardian in connection with a private individual or estate should enable that individual or estate to obtain assistance from public funds which would not otherwise be available to it. (G. R., F. D., No. 3864, dated 13th November 1895.)

MISCELLANEOUS.

I.—ACTS AND REGULATIONS.

1. It is a rule that, in the absence of provision to the contrary, an Act which is repealed is considered as if it had never existed. But transactions past and closed are always excepted from this rule (Maxwell on the Interpretation of Statutes, 377).

“Nothing but clear and express words will give a retrospective effect to a statute, and however much the present tense may be used in it, it must be construed as applying only to future matters,” and “every statute which takes away or impairs vested rights acquired under existing laws * * * or attaches a new disability in respect of transactions or considerations already past, must be presumed, out of respect to the Legislature, to be intended not to have a retrospective operation,” (Maxwell on the Interpretation of Statutes, 191, 192). (L. R. No. 54, dated 17th January 1876: *vide* G. R. No. 515, dated 24th *idem*.)

2. The recognized principle is that when an Act repealing, in whole or in part, a former Act, is itself repealed, the last repeal does not revive the Act or provisions before repealed, unless words be added reviving them. (L. R. No. 617, dated 21st May 1881; *vide* G. R. No. 3224, dated 4th June 1881.)

3. Acts which in terms extend to the whole of British India, necessarily apply to the Scheduled Districts as well as to the Regulation Districts, and no notification under the Scheduled Districts Act is necessary to give them operation in those districts. (L. R. No. 1329, dated 3rd December 1877: *vide* G. R. No. 7299, dated 8th December 1877.)

The Scheduled Districts Act cannot impose any restriction on the powers of the Legislature to make any Act it passes applicable to the Scheduled Districts either directly or indirectly as it thinks fit. (Adv. Gen. No. 59, dated 22nd August 1878: *vide* G. R. No. 4430, dated 29th *idem*.)

4. Marginal notes are merely a guide to the contents of the sections of an enactment; they are not a part of the law. (L. R. No. 124, dated 26th January 1884: *vide* G. R. No. 1422, dated 14th February 1884.)

5. It is a well established principle in the construction of statutes that private rights cannot be taken away or even be hampered by mere implication from the language used in a statute. In other words, statutes which encroach on the rights of the subject, receive a strict construction. (G. I., H. D., No. 45, dated 11th January 1884: *vide* G. R. No. 8001, dated 9th October 1884.)

6. An enactment is not to be construed by the debates which took place in the legislative body, or even by the forms in which it appeared while under deliberation, but by its clear grammati-

Maxwell on Interpretation of Statutes, p. 22;
I. L. R., 8 Bom., 247; 1.
L. R., 11 Bom., 1 and 24.

cal meaning. Otherwise an illustration used in the course of debate to meet a particular argument might defeat the object of the Legislature. (L. R. No. 1334, dated 19th October 1889: *vide* G. R. No. 8301, dated 31st idem.)

7. The Governor General in Council is pleased to apply the Revenue Recovery Act I of 1890 to all territories in India, which are under the administration of the Governor General in Council, but which are not part of British India, including the territories for the time being administered by the Agent to the Governor General in Beluchistan as such Agent, and to direct that an arrear of land revenue accruing in any part of British India, or a sum recoverable as such an arrear and payable to a Collector or other public officer, or a local authority, in any part of British India, may be recovered in any of those territories under the said Act as hereby applied. (G. I., For. Dept. Notn.* No. 1415-I, dated 30th April 1890, republished in the *B. G. G.* of 3rd December 1891: *vide* G. R. No. 8742, dated 17th idem.)

8. The publication of the vernacular versions of draft rules under the provisions of legislative enactments is far more important than that of the English versions. If the publication of the proposed rules, and invitation of criticisms from the people affected, are to be of any practical value, means must be taken for putting the proposed rules in an intelligible form before the communities concerned. The translations should be posted in village *chavdis* or in temples. But as the process is necessarily a slow one, it seems advisable to allow at least two months after the date on which the printed translations are expected to reach the Collectors, to enable the translations to come to the notice of the persons interested and to furnish time to the latter to submit to Government any objections they may entertain. The publication of the proposed rules in native newspapers need not, however, be discontinued, as though these publications may not be read by the rank and file of cultivators, they are read by persons of higher class and education who, too, may have an interest in the question. (G. R. No. 471, dated 22nd January 1892.)

II.—CONTRACTS.

1. Whenever additional special provisions or contracts of a special nature are to be entered into, the contract should be submitted, before execution, to Government, who will take such steps as may be necessary to have it framed in a legal manner. (G. R. No. 4691, dated 31st August 1874.)

* In this Notification by "territories in India, which are under the administration of Governor General in Council, but are not part of British India" is meant territories over which the British Government has jurisdiction in its own right by delegation, cession or other lawful means, such as Civil Stations, *e.g.*, Kolhapur, Wadhwan and Sadra, Cantonments, *e.g.*, Baroda and Deesa, and Railway lands in Native States. (G. R., P. D., No. 5795, dated 18th September 1894, and G. R. No. 8116, dated 2nd October 1894.)

MISCELLANEOUS.]

2. The following three forms of building contracts were sanctioned by Government Resolution No. 3140, dated 14th June 1879. Forms 1 and 2 are intended for use by officers of the Revenue and other Departments, who get small works executed without reference to the Public Works Department. No. 1 would be useful for works of the smallest kind and No. 2 for works of somewhat greater importance, say when the cost is in excess of Rs. 500. The principal difference between the two is that under the former the contractor gives security for the due execution of his contract, whereas under the latter he is required to deposit money as a guarantee of his fulfilment of his undertaking. Form No. 1 may, therefore, be used in every case in which a contractor is required to furnish security in lieu of leaving a deposit; but where the cost of the work is considerable it will always be advisable to use the Form No. 2 and to require a deposit.

Form No. 3 is meant for works of some magnitude, and it is expressly drafted for use in the Local Fund Department only, as all such works which are not executed by that Department are carried out by the Public Works Department, which has contract forms of its own. In this form an endeavour has been made to include every important condition which is ever likely to be recovered. Some of these will, on occasions perhaps, be found unsuitable. If so, they can be omitted, but for large works the stipulations should be very full and precise, and great care ought to be taken to see both that no important clause is left out and also that nothing is inserted in the annexure contradictory of anything in the contract.

Form No. 3 should always be executed in English. Forms Nos. 1 and 2 will generally have to be executed in the vernaculars.

No. 1.

AN AGREEMENT made the _____ day of _____
in the year 18 _____

between

(hereinafter styled the Contractor) and

(hereinafter styled the sureties) of the one part and
the Secretary of State for India in Council of the
other part :

WHEREAS the said Contractor has undertaken to execute certain work for the (O*) and the said (O) has accepted his offer upon the terms hereinafter expressed ;

* "O" signifies the local officer who gets the work executed.

THIS AGREEMENT WITNESSETH that in consideration of the sum of Rs. _____ (hereinafter called the contract-price), to be paid as hereinafter mentioned, the Contractor doth hereby, for himself, his heirs, executors and administrators, agree with the said Secretary of State, his successors and assigns, in manner following, that is to say :

* These words must vary in this and in the subsequent clauses with the nature of the annexure. All or any of the following words may be substituted for them, when necessary, viz., "plans, elevations, sections, specification and schedule of rates."

1. That the Contractor will at his own cost in a good, substantial and workmanlike manner execute and completely finish the work set forth in the schedule hereunder written in strict accordance with the plan* and specification hereunto annexed and marked A ;

2. That the stone, bricks, timber, and other materials to be provided and used by the Contractor in executing the said work shall be of the quality and description mentioned in the said specification ;

3. That the Contractor will commence the said work immediately on receipt of an order in writing to that effect from the said (O), and will finally complete the whole of the work and clear away all unused materials and rubbish within after the receipt of such order ; and in default thereof will pay to the said Secretary of State in Council for every day's delay after the said time during which the said work may remain unfinished, or the said materials and rubbish shall remain on the land, a sum of Rs. , and that the amount of such sums may be deducted by the Secretary of State from any money payable to the Contractor under this or any other contract, as if the same had been money paid to the Contractor on account ;

4. That the Contractor will in every respect execute and finish all the work described in or implied by the said specification, and observe the terms of the said specification, and fulfil his part of this contract to the entire satisfaction of the said (O) ;

5. That the Contractor will execute and completely finish in a good, substantial and workmanlike manner, to the entire satisfaction of the said (O), all such additions to, enlargements and alterations of, and deviations from, the said work and specification as the said (O) may from time to time during the progress of the work direct in writing ; and that if the said (O) shall certify that such additions, enlargements, alterations or deviations will involve extra cost in excess of the said contract-price, after allowing for any omissions which may have been, or may be at the same time ordered ; then that the Contractor shall be paid by the said Secretary of State such extra sum or sums as the said (O) shall certify to be the value of such additions, enlargements, alterations and deviations in excess of the said contract-price : *Provided* that the Contractor shall submit to such proportionate deduction from the said contract-price as the said (O) shall certify to be just on account of any alterations or diminution of the said work ;

6. That if by reason of any of such additions to or enlargements of the work, or from any other just cause, the Contractor shall, in the opinion of the said (O), have been unduly delayed or impeded in the completion of this contract, it shall be lawful for the said (O) to grant from time to time by

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writing under his hand such extension of the time named in Clause 3 for the completion of the work and the clearing away of unused materials and rubbish as to him shall seem reasonable, and the said Clause 3 shall thereupon be read and understood as if the extended time granted by the said (O) were the period therein mentioned for the said purposes ;

7. That no deviation from the said plan or specification, and no extra or additional work shall be begun until after the Contractor shall have received from the said (O) authority in writing under his hand for the same, and if begun without such authority shall be considered as done gratuitously by the Contractor ;

8. That the said (O) may at any time, by notice in writing to the Contractor, direct that the said work, or any part thereof, or any ordered additions to, or enlargements, or alterations of, or deviations from the said work be abandoned or stopped by the said Contractor, upon which notice the same shall be forthwith abandoned or stopped by the Contractor ; and the Contractor shall be entitled to receive from the said Secretary of State so much money as the work up to such time performed, and the materials up to such time supplied or that may be then on the ground, may be certified to be worth by the said (O), but the Contractor shall not be entitled to any compensation for any profit which he may lose in consequence of such abandonment or stoppage ;

9. That the Contractor shall personally superintend the execution of the work and shall not sublet this contract, or any portion thereof, or employ any sub-contractor for the execution of the work, or any part thereof, without the previous authority in writing of the said (O) ;

10. That the said (O) may reject any materials which he considers unfit to be used, or of a quality inferior to that mentioned in the specification, and may require any work to be undone and re-done which in his opinion has been done imperfectly or with improper materials ;

11. That if during the progress of the work any defect shall be discovered, or if anything shall be found to have been done not according to the specification or this contract, no further payment (if any shall be due) shall be made to the Contractor until after such defective work shall have been replaced by new work as good as it ought to have been originally ; and that if the Contractor shall not remove such defective work and replace the same within a reasonable time after receipt of notice so to do from the said (O), the said (O) may employ any other builder, or workmen to remove such defective work and replace the same, and the Contractor shall pay the cost thereof, and the said Secretary of State may deduct the same from the monies (if any) that may be, or become payable to the Contractor under this, or any other contract, or

otherwise recover the same from the Contractor; and that if any defect shall be discovered within a year after the completion of the work, the same shall be made as good as it ought to have been originally either by the Contractor, or, at the option of the said (O), by any other builder or workmen, and the cost thereof shall be paid by and be recoverable from the Contractor;

12. That if the Contractor becomes insolvent, or compounds with his creditors, or be guilty of any neglect or delay in the timely, or proper execution of the said work, or of any ordered additions, enlargements, alterations or deviations, or shall not execute the same in strict accordance with the said plan and specification and with the orders of the said (O), or if the Contractor shall in any manner neglect, or fail or become unable to carry on, or proceed with the work as directed by the said (O), the said (O) may get the work done at the cost of the Contractor by any other builder or workmen the said (O) shall think fit, and the Contractor and every person claiming through, or under him shall thereupon forfeit all claim to further payment under this contract except to such balance (if any) as shall remain out of the said contract-price after the completion of the work by such other builder or workmen; and the Contractor or any such person as aforesaid shall not be at liberty without the consent of the said (O) to remove any scaffolding, tackle or plank from the premises until the same shall cease to be required;

13. That the said (O) shall be the sole judge upon all matters relating to the meaning and intention of the said plan and specification and of this contract respectively, and his decision thereon shall be final and conclusive.

* And in consideration of the premises, the said Secretary of State in Council doth hereby agree with the said Contractor that if he shall well and duly perform his contract, he will pay the said sum of Rs. _____ in manner following, that is to say, the sum of Rs. _____, part thereof at the completion of _____, the sum of Rupees _____, other part thereof, at the completion of _____ and the sum of Rupees _____, in full for the work, when completely finished to the satisfaction of the said (O).

And whereas the Contractor has been required to furnish security for the due performance by him

* *Note.*—The following may be substituted for this para. when necessary:—

“And in consideration of the premises the said Secretary of State in Council hereby agrees with the said Contractor that if he shall well and duly perform his contract, he will pay the said sum of Rs. _____ in manner following, that is to say, every _____ whilst the said work shall be in progress, per cent. of such amount as the said (O) shall certify to be the proportionate value of the work done and approved during the then past _____, and the balance on the completion of the said work to the satisfaction of the said (O).”

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of the stipulations of this contract, the said sureties do hereby, at the request of the Contractor, agree with the said Secretary of State in Council that if the Contractor shall fail to perform any of the agreements and stipulations in the above written contract contained, and on his part to be observed and performed, the said sureties shall forfeit to the Secretary of State, his successors and assigns, the sum of Rs. _____, which sum may be recovered from them, and each of them, and each of their heirs, executors and administrators as if it were an arrear of land revenue.

In Witness whereof the said Contractor hath hereunto set his hand, and each of the said sureties hath hereunto set his hand, and*

hath, by order of the Governor in Council of Bombay, also hereunto set his hand on behalf of the said Secretary of State in Council the day and year first above written.

* The name and signature of the officer duly empowered by the Government of India to sign such contracts to be inserted here.

Signed by	}	Signed	(Contractor)
in the presence of		(Sureties)	
_____		*(Officer)	

SCHEDULE REFERRED TO.

(Here enter the names of the different buildings contracted for.)

(Signed) (Contractor).
(Officer).

A. ANNEXURE TO AGREEMENT

between

and the Secretary of State for India in Council, dated the _____ day of _____ in the year 18 _____.

Plan and Specification of the buildings referred to in the said Agreement :

(The Plan should be as accurate as possible; the Specification should fully set forth the measurements and the names and quality of the materials which it is intended should be used.)

(Signed) (Contractor).
(Officer).

No. 2.

AN AGREEMENT made the _____ day of _____ in the year 18 _____.

Between

hereinafter styled the Contractor of the one part and,

the Secretary of State for India in Council of the other part.

WHEREAS the said Contractor has undertaken to execute certain work for the (O*) and the said (O) has accepted his offer upon the terms hereinafter expressed; and as part of such terms the sum of Rs. has been deposited with the said as security for the due performance of this contract :

* (O) signifies the local officer who has the work executed.

THIS AGREEMENT WITNESSETH that in consideration of the sum of Rs. , (hereinafter called the contract-price), to be paid as hereinafter mentioned, the Contractor doth hereby, for himself, his heirs, executors and administrators, agree with the said Secretary of State in Council, his successors and assigns, in manner following :—

1. That the Contractor will at his own cost in a good, substantial and workmanlike manner execute and completely finish the work set forth in the schedule hereunder written in strict accordance with the plan† and specification hereunto annexed and marked A ;

† These words must vary in this and in subsequent clauses with the nature of the annexure. All or any of the following words may be substituted for them, when necessary, viz, "plans, elevations, sections, specifications, and schedule of rates."

2. That the stone, bricks, timber and other materials to be provided and used by the Contractor in executing the said work shall be of the quality and description mentioned in the said specification ;

3. That the Contractor will commence the said work immediately on receipt of an order in writing to that effect from the said (O), and will execute the various parts and portions thereof within the respective times fixed in that behalf by the specification, and will finally complete the whole of the work and clear away all unused materials and rubbish within after the receipt of such order; and in default thereof will pay to the said Secretary of State in Council for every day's delay after the respective times aforesaid during which any of the said parts, or portions of the said work may remain uncompleted, or the said work may remain unfinished, or the said materials and rubbish shall remain on the land, a sum of Rupees , and that the amount of such sums may be deducted by the said Secretary of State, at his option, from the said deposited sum of Rupees , or from any money payable to the Contractor under this, or any other contract, as if the same had been money paid to the Contractor on account ;

4. That the Contractor will in every respect execute and finish all the work described in or implied by the said specification and observe the terms of the said specification and fulfil his part of this contract to the entire satisfaction of the said (O) ;

5. That the Contractor will execute and completely finish in a good, substantial and workmanlike manner, to the entire satisfaction of the said (O), all such additions to, enlargements and alteration of, and deviations from the said work and specification as the said (O) may from time to time during the progress of the work direct in writing,

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and that if the said (O) shall certify that such additions, enlargements, alterations or deviations will involve extra cost in excess of the said contract-price, after allowing for any omissions which may have been or may be at the same time ordered, then that the Contractor shall be paid by the said Secretary of State such extra sum or sums as the said

shall certify to be the value of such additions, enlargements, alterations and deviations in excess of the said contract-price: *Provided* that the Contractor shall submit to such proportionate deduction from the said contract-price as the said (O) shall certify to be just on account of any alterations or diminution of the said work;

6. That if by reason of any such additions to or enlargements of, the work, or from any other just cause, the Contractor shall, in the opinion of the said (O), have been unduly delayed or impeded in the completion of this contract, it shall be lawful for the said (O) to grant from time to time by writing under his hand such extension of the time named in Clause 3 for the completion of the work and the clearing away of unused materials and rubbish as to him shall seem reasonable, and the said Clause 3 shall thereupon be read and understood as if the extended time granted by the said (O) were the period therein mentioned for the said purposes.

7. That no deviation from the said plan or specification, and no extra or additional work shall be begun until after the Contractor shall have received from the said (O) authority in writing under his hand for the same, and if begun without such authority shall be considered as done gratuitously by the Contractor;

8. That the said (O) may at any time by notice in writing to the Contractor direct that the said work, or any part thereof, or any ordered additions to, or enlargements or alterations of, or deviation from the said work be abandoned or stopped by the said Contractor, upon which notice the same shall be forthwith abandoned or stopped by the Contractor, and the Contractor shall be entitled to receive from the said Secretary of State so much money as the work up to such time performed and the materials up to such time supplied, or that may be then on the ground, may be certified to be worth by the said (O), but the Contractor shall not be entitled to any compensation for any profit which he may lose in consequence of such abandonment or stoppage;

9. That the Contractor shall personally superintend the execution of the work and shall not sublet this contract, or any portion thereof, or employ any sub-contractor for the execution of the work, or any part thereof, without the previous authority in writing of the said (O);

10. That the Contractor shall keep on the premises a competent foreman and all notices and orders for the Contractor may be given to such foreman, or to any person who from time to time may appear to be the foreman of the work, and if either the foreman

or any of the workmen employed shall be considered by the said (O) incompetent or shall misbehave himself he shall be discharged and may be excluded from the premises ;

11. That the said (O) may reject any materials which he considers unfit to be used, or of a quality inferior to that mentioned in the specification, and may require any work to be undone and re-done which in his opinion has been done imperfectly or with improper materials ;

12. That if during the progress of the work any defect shall be discovered, or if any thing shall be found to have been done not according to the specification, or this contract, no further payment (if any shall be due) shall be made to the Contractor until after such defective work shall have been replaced by new work as good as it ought to have been originally ; and that if the Contractor shall not remove such defective work or replace the same, within a reasonable time after receipt of notice so to do from the said (O), the said (O) may employ any other builder or workmen to remove such defective work and replace the same, and the Contractor shall pay the cost thereof, and the said Secretary of State may deduct the same from the said deposited sum of Rs. _____, or from the monies (if any) that may be or become payable to the Contractor under this or any other contract, or otherwise recover the same from the Contractor ; and that if any defect shall be discovered within a year after the completion of the work, the same shall be made as good as it ought to have been originally either by the Contractor, or, at the option of the said (O), by any other builder or workmen, and the cost thereof shall be paid by the Contractor and may be deducted from the deposited sum of Rs. _____ or otherwise recovered from him : *Provided* that in any case it shall be lawful for the said (O) instead of requiring any such defective work as aforesaid to be removed and replaced, to permit the same to remain, and to reduce the sum payable to the Contractor under this contract by such an amount as in his opinion shall be equivalent to the difference in value between the work as it should have been and as if has been executed or to retain such amount from the deposited sum of Rs. _____ ;

13. That if the Contractor becomes insolvent, or compounds with his creditors, or be guilty of any neglect or delay in the timely or proper execution of the said work or of any ordered additions, enlargements, alterations or deviations, or shall not execute the same in strict accordance with the said plan and specification and with the orders of the said (O), or if the Contractor shall in any manner neglect, or fail, or become unable to carry on or proceed with the work as directed by the said (O), the said (O) may get the work done at the cost of the Contractor by any other builder or workmen the said (O) shall think fit, and the Contractor and every person claiming through or under him shall thereupon forfeit all claim to have the said deposit-

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ed sum of Rs. returned to him and also to any further payment under this contract except to such balance (if any) as shall remain out of the said sum of Rs. and the said contract-price respectively after the completion of the work by such other builder or workmen: *Provided* that the said (O) shall have the option of purchasing at the market value thereof, which shall be determined by the said (O), all the materials, implements and machinery belonging to the Contractor deposited, placed or erected on or in the vicinity of the work, or of purchasing the materials at the market value thereof, and of using the implements and machinery on the payment of such sum for the hire of the same as the said (O) shall deem reasonable, and the Contractor, or any such person as aforesaid, shall not be at liberty, without the written consent of the said (O), to remove such materials, implements, or machinery or any scaffolding, tackle, or plank from the premises until the same shall cease to be required;

14. That the said (O) shall retain the said deposited sum of Rs. for a period of after the completion of the work and may make all the deductions therefrom herein mentioned and may also deduct therefrom all other sums which shall become due from or payable by the Contractor under this contract;

15. That the said (O) shall be the sole judge upon all matters relating to the meaning and intention of the said plan and specification and of this contract respectively and his decision thereon shall be final and conclusive.

* And in consideration of the premises the said Secretary of State in Council doth hereby agree with the said Contractor that if he shall well and duly perform his contract he will pay the said sum of Rs. in manner following, that is to say, the sum of Rs. part thereof, at the completion of , the sum of Rs. , other part thereof, at the completion of , and the sum of Rs. , in full for the work when completely finished to the satisfaction of the said (O).

And for the due observance of the stipulations entered into by him the said Contractor doth hereby bind himself unto the said Secretary of State in Council in the penal sum of Rs. .

* *Note.*—The following may be substituted for this para. when necessary:—

“ And in consideration of the premises the said Secretary of State in Council hereby agrees with the said Contractor that if he shall well and duly perform his contract he will pay the said sum of Rs. in manner following, that is to say, every whilst the said work shall be in progress, per cent. of such amount as the said (O) shall certify to be the proportionate value of the work done and approved during the then past , and the balance on the completion of the said work to the satisfaction of the said (O).”

In Witness whereof the said Contractor hath hereunto set his hand and the *
 * The name and signature of the officer duly empowered by the Government of India to sign such contracts to be inserted here.
 hath, by order of the Governor in Council of Bombay, also hereunto set his hand on behalf of the said Secretary of State in Council, the day and year first above written.
 Signed and delivered by the above named in the presence of } (Signed) Contractor.
 _____ } (Officer)

SCHEDULE REFERRED TO.

(Here enter the names of the different buildings contracted for)

(Signed) (Contractor.)
 (Officer.)

A. ANNEXURE TO AGREEMENT

between

and the Secretary of State for India in Council, dated the _____ in the year 18 .

Plan and Description of the Buildings referred to in the said Agreement :

(The plan should be as accurate as possible ; the description should fully set forth the measurements, and the names and quality of the materials which it is intended should be used.)

(Signed) (Contractor.)
 (Officer.)

No. 3.

AN AGREEMENT made the _____ day of _____ in the year 18 _____

between

(hereinafter styled the Contractor) of the one part and the *President of the Local Fund Committee* of the District of _____ (hereinafter styled the President) of the other part :—

WHEREAS a tender made by the said Contractor for the performance of the work specified in the Plan and Specification hereunto attached (being part of the documents marked A) has been accepted by the President upon the terms hereinafter expressed, and as part of such terms the sum of Rs. _____

has been deposited with the President as security for the due performance of this contract ;

NOW THESE PRESENTS WITNESS that in pursuance of the said tender, and in consideration

of the prices set forth in the Schedule of Rates contained in the documents hereto annexed and marked A, amounting in all to the sum of Rs. (hereinafter called the contract-price), to be paid as hereinafter mentioned, the Contractor hereby agrees with the President in manner following (that is to say) :—

1. That the Contractor will at his own cost in a good, substantial and workmanlike manner execute and completely finish with the best materials of their respective kind the work set forth in the schedule hereunder written in strict accordance with the Plans, Elevations, Sections and Specification and Schedule of Rates hereunto annexed and collectively marked A, and with the regulations and instructions contained, or referred to therein ;

2. That the Contractor will commence the said work immediately on receipt of an order in writing to that effect from the President, and will execute the various parts and portions thereof within the respective times fixed in that behalf by the specification, and will finally complete the whole of the work and clear away all unused materials and rubbish within after the receipt of such order ; and in default thereof will pay to the President for every day's delay (exclusive of Sundays) after the respective times aforesaid during which any of the said parts, or portions of the said work, may remain unfinished, or the said materials and rubbish shall remain on the land, a sum of Rs.

; and that the amount of such sums may be deducted by the President, at his option, from the said deposited sum of Rs. , or from any money payable to the Contractor under this, or any other contract, as if the same had been money paid to the Contractor on account ;

3. That no work under this contract shall be done on a Sunday save with the permission of the President ;

4. That the Contractor will in every respect execute and finish all the work described in or implied by the said specification and observe the terms of the specification and fulfil his part of this contract to the entire satisfaction of the President ;

5. That the Contractor will execute and completely finish in a good, substantial and workmanlike manner, to the entire satisfaction of the President, all such additions to, enlargements and alterations of, and deviations from the said work and specification as the President may from time to time, during the progress of the work, direct in writing, and that if the President shall consider that such additions, enlargements, alterations, or deviations will involve extra cost in excess of the said contract-price, after allowing for any omissions which may have been or may be at the same time ordered, then that the Contractor shall receive such extra sum or sums as the President shall certify to be the value of such additions, enlargements, alterations and deviations in excess of the said contract-

price: *Provided* that the Contractor shall submit to such proportionate deduction from the said contract-price as the President shall certify to be just on account of any alterations or diminution of the said work ;

6. That if by reason of any such additions to, or enlargements of the work, or from any other just cause, the Contractor shall, in the opinion of the President, have been unduly delayed or impeded in the completion of this contract, it shall be lawful for the President to grant from time to time by writing under his hand such extension of time as to him shall seem reasonable without thereby prejudicing or in any way affecting the validity of this contract ; and any and every such extension of time shall be deemed to be in full compensation and satisfaction for and in respect of any and every actual and probable loss or injury sustained or sustainable by the Contractor in the premises, and shall in like manner exonerate him from any claim or demand on the part of the President for or in respect of the delay occasioned by the cause and causes in respect of which any such extension of time shall have been made but not further or otherwise ;

7. That no deviation from the said plans, elevations, sections or specification, and no extra or additional work shall be begun until after the Contractor shall have received from the President authority in writing under his hand for the same, and if begun without such authority shall be considered as done gratuitously and solely for the satisfaction of the Contractor ;

8. That the President may at any time by notice in writing to the Contractor order that the said work, or any part thereof, or any ordered additions to, enlargements or alterations of, or deviations from the said work be abandoned or stopped, either temporarily or permanently, by the said Contractor, upon which notice the same shall be forthwith abandoned or stopped by the Contractor accordingly : *Provided* that the Contractor shall not be entitled to any compensation whatsoever on account of any temporary stoppage of the work, but if the work or any part thereof is abandoned, the Contractor shall receive such compensation as the President shall determine to be equivalent to the loss sustained by him in consequence of such abandonment, and provided that in determining such compensation no account shall be taken of any profit which the Contractor might lose in consequence of such abandonment ;

9. That the Contractor shall not sublet this contract, or any portion thereof, or employ any sub-contractor for the execution of the work, or any part thereof, without the previous authority in writing of the President ; and shall personally * superintend the execution of the work ;

* The following words may be substituted here, if desired :—

“ Either personally sup-

10. That the Contractor shall keep on the premises a competent foreman, and all notices and orders for the Contractor may be given to such

foreman, or to any person who from time to time may appear to be the foreman of the work, and if either the foreman or any of the workmen employed shall be considered by the President incompetent, or shall misbehave himself, he shall be discharged and may be excluded from the premises ;

11. That the President may reject any materials which he considers of an inferior quality or unfit to be used on the work and also any implements or machinery which he considers unfit for use, and may require such rejected materials, implements and machinery to be removed from the premises by the Contractor to any distance not exceeding

, and if the Contractor shall refuse or neglect so to remove such materials, implements and machinery for twenty-four hours after receipt of an order from the President directing such removal, then that the President may remove such materials, implements and machinery at the cost of the Contractor and deduct the expense of such removal from the said sum of Rs. so deposited by the Contractor as aforesaid, or from any monies payable to the Contractor under this or any other contract ;

12. That the President may require any work to be undone and redone which has, in his opinion, been done imperfectly or with improper materials ;

13. That if during the progress of the work any defect shall be discovered, or if any thing shall be found to have been done not in accordance with the said plans and specification, or this contract, no further payment (if any shall be due) shall be made to the Contractor until after such defective work shall have been replaced by new work as good as it ought to have been originally ; and that if the Contractor shall not remove such defective work and replace the same within a reasonable time after receipt of notice so to do from the President, the President may employ any other builder or workmen to remove such defective work and replace the same, and deduct the cost thereof from the said sum of Rs. , or any money that may be payable to the Contractor under this, or any other contract, or otherwise recover the same from the Contractor ; and that if any defect shall be discovered within a year after the completion of the work, the same shall be made as good as it ought to have been originally either by the Contractor, or, at the option of the President, by any other builder or workmen, and the cost thereof shall be paid by the Contractor and may be deducted from the said deposited sum of Rs.

or be otherwise recovered by the President from him : *Provided* that in any case it shall be lawful for the President instead of requiring any such defective work as aforesaid to be removed and replaced to permit the same to remain and to reduce the sum payable to the Contractor under this contract by such an amount as, in his opinion, shall be equivalent to the difference in value between the work as it should have been and as it has been executed, or to retain such amount from the said deposited sum of Rs.

erintend the execution of the work or leave a competent agent for this purpose on the spot, whose nomination shall be subject to the approval of the President."

14. That the Contractor will at his own cost repair any injury and undertake any reconstruction at any time during the progress of the said work until its final completion to the satisfaction of the President, caused or rendered necessary by flood, storm, fire, tempest or any other accident or offence; and that if the Contractor shall neglect or refuse to do such repair or reconstruction within a reasonable time after notice so to do from the President, then the President may cause such repair or reconstruction to be done at the cost of the Contractor by any other builder or workmen and may deduct the cost thereof from the said deposited sum of Rs. or from any monies payable by the President to the Contractor under this or any other contract;

15. That if the Contractor becomes insolvent, or compounds with his creditors, or be guilty of any neglect or delay in the timely or proper execution of the said work, or of any ordered additions, enlargements, alterations or deviations, or shall not execute the same in strict accordance with the said plans, elevations, sections and specification and with the orders of the President, or if the Contractor shall in any manner neglect, or fail, or become unable to carry on or proceed with the work, as directed by the President, the President may get the work done at the cost of the Contractor by any other builder or workmen the President shall think fit, and the Contractor, and every person claiming through or under him, shall thereupon forfeit all claim to have the said deposited sum of Rs. returned to him and also to any further payment under this contract except to such balance (if any) as shall remain out of the said sum of Rs. and the said contract-price respectively after the completion of the work by such other builder, or workmen: *Provided* that the President shall have the option of purchasing at the market value thereof, which shall be determined by the President, all the materials, implements and machinery belonging to the Contractor deposited, placed or erected on or in the vicinity of the work, or of purchasing the materials at the market value thereof and of using the implements and machinery on payment of such sum for the hire of the same as the President shall deem reasonable, and the Contractor or any such person as aforesaid shall not be at liberty, without the written consent of the President, to remove such materials, implements or machinery or any scaffolding, tackle, or plank from the premises until the same shall cease to be required;

16. That the President shall retain the said deposited sum of Rs. for a period of after the completion of the said work and may make all the deductions therefrom herein mentioned and may also deduct therefrom all other sums which shall become due from or payable by the Contractor by virtue of this contract;

17. That the President shall be the sole judge upon all matters relating to the construction, incidents and consequences of the plans, elevations,

[MISCELLANEOUS.]

sections and the said specification and of this contract respectively, and his decision thereon shall be final and conclusive ;

18. That it shall be competent to the President to appoint in writing any Government officer to exercise all or any of his powers under this agreement ;

19. That in this agreement the word " Contractor " shall be deemed to include the Contractor, his heirs, executors, and administrators, and the word " President " shall be deemed to include the President, his successors and assigns.

And in consideration of the premises the President hereby agrees with the Contractor that if he shall well and duly perform his contract he will pay the said sum of Rs. _____ in the manner following, that is to say in monthly instalments during the progress of the work, each instalment to be equal to _____ per cent. of such amount as shall be certified by the President to be the proportionate value of the work done and approved during the then past month,* and the balance on the completion of the work to the satisfaction of the President.

In Witness whereof the parties hereto have hereunto set their hands the day and year first above written.

Signed and delivered by the abovenamed	(Signed)
in the presence of	(Contractor.)
_____	(President.)

SCHEDULE REFERRED TO.

(Here enter the names of the different buildings contracted for.)

(Signed)
(Contractor.)
(President.)

3. A list of persons declared ineligible to take up Government contracts, with space to add other names when necessary, should be hung up in every Mámlatdár's kacheri, and in the Huzúr Deputy Collector's office, and a similar list should also be kept in the Collector's and his Assistants' offices, and it should invariably be consulted whenever the letting of a contract is under consideration. (G. R. No. 868, dated 11th February 1881.)

* *Note*.—The following may be inserted here, if desired :—

" After deducting the monies, if any, already paid on account of the materials employed in the said work, added to _____ per cent. of such amount as shall be so certified to be the value of the materials brought during the said month for use, but not yet used, on the said work."

(G. R. No. 3140, dated 14th June 1879)

4. The Legal Remembrancer's opinion,* which is embodied in Government Resolution, Judicial Department, No. 6671, of 24th November 1874, dealt with certain contracts which were clearly opposed to public policy and humanity.

In the case of "Salkhats" in the Khándesh District it is evident that they are frequently free from any objections on the score of public policy or humanity, and are not void.

† Fraudulent breaches of contract by workmen.

The contracts to which the provisions of Act † XIII of 1859 are applicable must be deemed to be only such which a Civil Court would enforce under the provisions of the Indian Contract Act, 1872.

In every case of the kind which comes before him the Magistrate should, before taking proceedings under Act XIII of 1859, consider whether the contract is one which can be legally enforced. (L. R. No. 1467, dated 13th December 1881; *vide* G. R. No. 7772, dated 21st idem.)

III.—OFFICIAL ETIQUETTE.

1. The following Notification of the Government of India, No. 5356, dated 19th December 1854, gives to Native gentlemen the liberty of conforming, at their option, either to Native or European custom in the matter of wearing shoes. The order refers to entertainments at Government House, but Government see no reason for laying down any other ‡ rule for Government offices :—

* "There can be no question, I think, that the contracts which the Collector has forwarded are not such as are contemplated by Act XIII of 1859, and that the Collector as Magistrate rightly declined to render the creditor any assistance under that Act. If, as is stated by the Revenue Commissioner, there is reason to believe that other Magistrates do recognize and enforce such bonds, it is certainly, I think, desirable in the interests of the poorer classes that they should be reminded that that Act applies only to *bond fide* contracts for specific work entered into by *artificers, workmen and labourers*, who receive part payment in advance, and subsequently seek to evade their agreement. It is contrary to public policy and to humanity to enforce such bonds as those forwarded by the Collector in which in order to work out a trifling debt a man binds himself and his family to perform any kind of service by night or by day for periods of 12 or 15 years. No Civil Court would give effect to such contracts.

† "I know of no law under which the person in whose favour these bonds have been executed can be punished. If the invalidity of such agreements becomes known, they will no doubt be soon discontinued." (Mr. Naylor's Report No. 496 of 1874, embodied in Government Resolution, Judicial Department, No. 6671, dated 24th November 1874.)

‡ In their Resolution No. 514 dated 19th March 1869, the Government of India in the Foreign Department ruled that all Natives of India wearing boots or shoes of European fashion may appear thus habited before all the servants of Government, in all places within the Bengal Presidency and its dependencies, on all official or semi-official occasions, including Darbárs of all descriptions, and that in the case of Natives wearing shoes of Indian fashion, the old social practice whereby such shoes must be taken off within the customary limits, will be maintained by the servants of Government in their official or semi-official capacities. In Government Resolution, Judicial Department, No. 722, dated 20th April 1868, it was directed that these rules should be held in force in this Presidency.

MISCELLANEOUS.]

“In order to remove doubts the Governor General in Council is pleased to issue the following Regulations :—

All Native gentlemen who may attend Darbárs either in the Government House or in camp will conform to Native custom, and will accordingly be required to leave their shoes at the door.

All Native gentlemen attending entertainments at Government House, &c., will be at liberty to conform, at their option, either to Native or to European custom.

If they prefer the Native custom and wear Native shoes, they will be required to leave their shoes at the door. If they adopt the European custom and wear European shoes, they will be so admitted.”

(G. R. No. 1392, dated 13th April 1864.)

IV.—POISONS.

1. Under Section XXI of Bombay Act VIII* of 1866, the Right Honourable

* An Act to regulate and restrict the sale of poisons in the Bombay Presidency.

the Governor in Council is pleased to extend the provisions of that Act to the Province of Sind and to declare

that the duties assigned thereby shall be performed by the several Collectors and Political Superintendents in Sind and that the proceeds of license fees and fines shall, after the payment of the expenses incurred in carrying out the provisions of such Act, be credited in towns into which Act XXVI* of 1850 has been introduced to the Municipal, and in other places to the Local Funds. (G. N. dated 14th June 1867.)

* Repealed by Act VI of 1873.

OFFICIAL CORRESPONDENCE.

1. All officers corresponding in the Revenue, Financial and General Departments are required to cause to be legibly endorsed in half margin, on the left hand side at the top of the outer page of their communications, the number, date and subject thereof. (G. M. No. 4328, dated 22nd November 1860.)

2. All letters to Government should be docketed according to the form given in the margin. Care should be taken that the subject of the letter is given in the docket in as clear, brief and correct a manner as possible. (G. C., Territorial Department, No. 11088, dated 26th November 1851, and G. R., F. D., No. 2554, dated 20th August 1874.)

<p>From The Collector of dated No. Subject (Here enter subject of letter.)</p>	<p>according to the form given in the margin. Care should be taken that the subject of the letter is given in the docket in as clear, brief and correct a manner as possible. (G. C., Territorial Department, No. 11088, dated 26th November 1851, and G. R., F. D., No. 2554, dated 20th August 1874.)</p>
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3. The head of the office is responsible for punctuality and correctness in the preparation of returns. The Local Governments should impress this upon the officers concerned. A list showing the number of returns, with the dates prescribed for their submission, should be exhibited in every official room. (G. I., F. D., No. 10301, dated 4th October 1860; *vide* G. M., F. D., No. 4206, dated 14th November 1860.)

4. It is obviously inconvenient for a servant of one Government to correspond with another Government, except through the regular channels of communication. (G. R. No. 1050, dated 16th March 1868.)

5. The Commissioners of Divisions are authorized to correspond direct with the Commissioner of Berár in connection with revenue questions. (G. R. No. 3699, dated 27th June 1881.)

6. Officers when expressing an opinion on matters of fact should do so in their own language. It is the course enjoined by law in all judicial proceedings, and there is certainly no reason why it should not be followed in the disposal of business connected with the revenue and general administration of the country which frequently involves important public and private interests.

It is not intended that this order should apply to mere routine business.

(G. R. No. 4668, dated 29th September 1870.)

7. A case has recently occurred of a Revenue officer in charge of a managed estate sending up to Government a printed memorial on behalf of the estate, signed by himself but drafted by a barrister. The document, as is usual in such cases, is of quite unnecessary length; but apart altogether from that objection, Government deem it expedient to check at the outset this departure from the customary

[OFFICIAL CORRESPONDENCE.]

character of official correspondence in such matters between Government and their officers. Revenue officers should, therefore, be informed that all communications they may have to make to Government on the subject of estates under their management must continue to be in their own words. (G. R., P. D., No. 916, dated 7th February 1895.)

8. It frequently happens that, when the opinions of heads of offices and controlling officers are called for on questions relating to proposed legislation and matters of general policy, the reports and opinions of subordinate officers are submitted in original with a few remarks from the controlling officer. Government desire in future that the substance of the opinions of subordinates be condensed as much as possible in the controlling officer's own report. It is, of course, to be understood that any reports which it may be thought advisable to send on in original to Government may be forwarded with the controlling officer's report as heretofore. (G. C. No. 5062, dated 8th September 1873.)

9. Government expect that heads of departments when transmitting papers on which a decision has to be passed, should give Government the benefit of their personal judgment, observation and experience. (G. R. No. 5018 dated, 4th July 1883.)

10. According to correct forms of legal drafting, a grant executed under a power is made in the name of the grantor, and the reference to the power appears at the end of the instrument, and in the signature of the party actually signing. (L. R. No. 66, dated 20th June 1871; *vide* G. R. No. 3206, dated 3rd July 1871.)

11. When a document is to be executed under a power, the person from whom the power is derived, should appear at the opening of the document as the party thereto, and the name of the person executing on his behalf should appear at the end of the instrument only. (L. R. No. 593, dated 26th May 1893; *vide* G. R. No. 4382, dated 19th June 1893.)

12. Without wishing to fetter or limit the right of officers to discuss freely questions of administrative importance, His Excellency in Council cannot permit such expressions as "extremely unfair," "doubly unfair," when applied to the views of Government to pass unrebuked. (G. R. No. 4923, dated 6th October 1871.)

13. All servants of Government should endeavour to work as amicably as possible with officers of other departments, and should remember that the time of Government is too valuable to be wasted in settling petty squabbles which should never be allowed to arise. (G. R., F. D., No. 1697, dated 21st May 1875.)

14. It must be understood that Government will insist on all their officers carrying on their official correspondence in courteous and becoming

OFFICIAL CORRESPONDENCE.]

language. (G. R. No. 6014, dated 21st November 1878.)

15. Vernacular papers should not be submitted to Government unless they are accompanied by translations in English. (G. R. No. 2087, dated 12th April 1873.)

16. The direction contained in the following extract from the Secretary of State's Despatch No. 20, dated 30th March 1876 (acknowledging the receipt of the Revenue Survey and Assessment Atlas of the Khándesh Collectorate), as to the translation into the English language of native terms, is very necessary in all Departments, and should be strictly enforced :—

“I would suggest, however, that the English meaning of every technical native term that is used should either be added in brackets where it occurs, or, which is perhaps preferable, entered in a glossary in the volume itself.”

(G. R. No. 2669, dated 2nd May 1876.)

17. The instructions contained in the following letter from the Government of India, No. 2, Public—135, dated 7th February 1895, should be observed in all official correspondence in this Presidency :—

“In the circular letter from this Department, No. 70—3943-52 of the 31st December 1873, the Government of India drew attention to the instructions of the late Honourable Court of Directors regarding the use of vernacular terms in official correspondence, and requested that such terms should be employed as sparingly as possible, especially in papers which were intended to go beyond the Local Government first concerned. Again, in the extract circulated with Resolution No. 2—81-95 of 31st January 1881, the Secretary of State drew attention to the inconvenience attending the use of vernacular terms in reports or official correspondence sent home to the India Office, and directed that, whenever it was considered desirable to make use of them, their English equivalents should also be given.

“2. It appears to the Government of India that these instructions have in some measure been lost sight of owing to lapse of time. Letters and reports which come before the Governor General in Council, and especially those dealing with revenue matters, are not infrequently almost unintelligible to persons unacquainted with the Province from which they are received, owing to the number of vernacular terms with which their pages are laden.

“3. I am, therefore, to request that the use of such terms may be avoided as far as possible. It is sometimes necessary to employ vernacular words for which there exists no English equivalent; and the precise meaning of which can be conveyed in English, if at all, only by a long periphrasis. But wherever it is possible to use an

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English word which expresses, with sufficient accuracy for the immediate purpose, the meaning to be conveyed, this should be done.

"4. In the orders of 1873, referred to above, it was stated that they were 'not meant to govern necessarily the style of correspondence carried on between a Local Government and the officers subordinate to it, but were applicable mainly to writings intended to go beyond one Local Government.' It is, however, difficult to distinguish between papers that may go beyond the Local Government and those that will not; and even those that do not, must be reproduced in Proceedings which are always examined by the Government of India. Moreover, officers can hardly be expected to cultivate two distinct official styles, to be used respectively in the two classes of papers."

(G. R., G. D., No. 901, dated 5th March 1895.)

18. Local terms which it is found necessary to use in official correspondence should be defined. (G. R. No. 3722, dated 8th May 1885.)

19. No modifications are to be made in the statistical forms prescribed by the Government of India without the distinct permission of that Government, and returns are to be submitted in the exact forms prescribed. Should any difficulties be felt in filling them up, or should any defects be found in them, such difficulties or defects should at once be brought to the notice of the Government of India.

It is not, however, intended in any way to debar Local Governments and Administrations from asking for any additional information beyond that given in the statements prepared for the Government of India, or from prescribing other returns for their own information. (G. I., R., A. & C., No. 5, dated 3rd January 1873: *vide* G. R., G. D., No. 129, dated 15th *idem*, and G. M. No. 407, dated 23rd *idem*.)

20. All printed documents are to bear the date of their despatch, and not that on which they were sent in manuscript to the Press. (G. R. No. 2668, dated 10th May 1873.)

21. When papers are called for by the Government of India for perusal, they may usually be furnished in original, whereby much needless labour and expense of copying will be avoided. (G. I., F. D., No. 2837, dated 10th December 1875; *vide* G. R., F. D., No. 4311, dated 22nd *idem*.)

22. Except in cases of absolute necessity, only foolscap-sized paper should be used for any returns or estimates submitted to the Government of India in the Financial Department, to whatever subject they may relate. With a little ingenuity the largest returns can always be arranged upon paper of foolscap size. (G. I., F. D., Nos. 855, dated 12th February 1876, 2615, dated 31st August 1878, and 7, dated 1st October 1878; *vide* G. R., F. D.,

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Nos. 891, dated 23rd February 1876, 3375, dated 20th September 1878, and 3750, dated 17th October 1878.)

23. The returns submitted to the Government of India in the Home Department should also be prepared on foolscap-sized paper. This order applies only to separate or special returns, and does not affect any return submitted with annual or other reports. (G. L., H. D., No. 42—1994, dated 29th October 1877; *vide* G. R., F. D., No. 4867, dated 14th November 1877.)

24. Collectors should report through the Commissioners in all cases except when they are specially directed to address Government direct. (G. R., F. D., No. 1238, dated 18th March 1876.)

25. The Secretary of State deprecates the practice of officially reporting demi-official correspondence without the sanction of the writers. (S. of S. No. 42, dated 26th October 1876; *vide* G. R. No. 489, dated 25th January 1877.)

26. The latest edition of books of reference should always be quoted in official communications to avoid misunderstanding. (G. R. No. 3534, dated 5th July 1879.)

27. Three copies of the circular orders issued by the High Court should be forwarded to Her Majesty's Secretary of State for the use of the India Office. (G. R. No. 6648, dated 16th December 1880.)

28. All matters connected with the subjects noted below, so far as they affect the provinces of British India, come under the cognizance of the Revenue and Agricultural Department of the Government of India :—

1. Land Revenue, including Settlements and Takávi Advances.
2. Surveys, including Geological Surveys, but excluding Archæological and Marine Surveys.
3. Agriculture and Horticulture, including Fibres and Silk, Fisheries, Cattle-breeding and Cattle-disease.
4. Minerals,
5. Meteorology.
6. Famine.
7. Practical Arts.
8. Museums.
9. Exhibitions.
10. Weights and Measures.
11. Forests.

All matters relating to the undermentioned subjects are administered by the Home Department :—

1. Law and Justice.
2. Jails and the Penal Settlements in the Andaman and Nicobar Islands.

[OFFICIAL CORRESPONDENCE.]

3. Escheats, and the administration of Estates of Intestates.
4. Police.
5. Education.
6. Examinations.
7. Fine Arts.
8. Sanitation.
9. The (Civil) Medical Service.
10. The Ecclesiastical Service.
11. Civil Service questions.
12. Registration of Assurances.
13. Patents.
14. The working of the Vagrancy Act.
15. The working of the Arms Act.
16. Copyright.
17. Archæology (including Conservation of Ancient Monuments).
18. Municipalities and Local Funds.
19. Census.
20. Gazetteers.

(G. I., H., R. & A., No. 25-886-914, dated 4th July 1881, and G. I., H. D., Nos. 28-1146-72, dated 31st July 1882, 31-1487-1615, dated 23rd September 1886, and 17-1114-1137, dated 10th June 1890; *vide* G. Rs. Nos. 4141, dated 18th July 1881, and 7165, dated 9th October 1886, and G. Rs., G. D., Nos. 3151, dated 15th August 1882, and 2486, dated 25th June 1890.)

29. The specific sanction of the Government of India should be applied for before any agreement in the name of the British Government is concluded with a Native State. (G. I., For. Dept., No. 216-I, dated 21st July 1882; *vide* G. R. No. 5434, dated 12th August 1882.)

30. The Government of India in the Revenue and Agricultural Department should be furnished, for record and reference, with eight copies as published of all manuals, digests, codes and circular orders of importance bearing on the branches of administration dealt with in that department, and also of a similar number of any additions and corrections issued; these need not be forwarded with any covering letter. (G. I., R. & A., No. 2-R-13-1, dated 7th January 1890; *vide* G. R. No. 1345, dated 19th February 1890.)

31. Any new or revised manuals of orders on any subject which may be issued in Bombay, and the additions or alterations subsequently made in them, should be regularly transmitted to the Home Department of the Government of India. (G. I., H. D., No. 507, dated 31st October 1891; *vide* G. R. No. 7580, dated 24th September 1892.)

32. Whenever a Military officer may die while in civil employ, the event should be reported to the Adjutant General of the Army by the Department to

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which the deceased belonged. (G. R., M. D., No. 1450, dated 1st May 1862; *vide* G. M. No. 1787, dated 5th idem.)

33. The following letter No. 423, dated 23rd December 1886, from the Government of India, Home Department, was communicated to all Departments of the Secretariat for information and guidance :—

“ I am directed to acknowledge the receipt of your letter No. 8316, dated the 25th ultimo, enquiring what is the practice of reporting to the Secretary of State the deaths of Bombay officers, Civil or Military, serving elsewhere, *i.e.*, whether the Government of India or Local Governments under whom they may be serving report the deaths direct or leave it to the Government of Bombay to do so.

“ 2. In reply, I am to say that ordinarily it is not customary to report such deaths to the Secretary of State at all. When, however, a Civil or Military Officer is killed or wounded in the execution of his duty, especially in time of war, the fact should be reported to the Secretary of State by the Government under which he was actually serving at the time, and it will be convenient to make the report by telegram in the case of a death.

“ 3. Casualties among Civil and Military Officers serving in Burma are reported by the Chief Commissioner and His Excellency the Commander-in-Chief, respectively, direct to the Secretary of State.”

(G. R. No. 218, dated 11th January 1887.)*

*Letter from the Secretary to the Government of India, Home Department (Public) No. 843, dated 15th April 1887 :—

“ I am directed to forward the accompanying copy of a despatch from Her Majesty's Secretary of State for India, No. 110 (Public), dated 18th November 1886, asking for a report of casualties among Civil Officers in the execution of their duty. The Government of India leaves it to the discretion of His Excellency the Governor in Council to report to the Secretary of State the casualties by telegram or by letter; but in the case of wounds, the report should invariably show whether they were dangerous, severe or slight. The report need be made only regarding officers actually serving under the Government of Bombay at the time when the casualty occurs. A copy of the report should at the same time be sent to the Government of India.”

Despatch from Her Majesty's Secretary of State for India to His Excellency the Right Honourable the Governor General of India in Council, No. 110 (Public), dated India Office, London, 18th November 1886 :—

“ With reference to the second paragraph of your letter dated the 21st of September last, No. 45, I am of opinion that the practice followed with regard to reporting to the Secretary of State information respecting Military Officers, who are killed or wounded in the execution of their duty, should be followed in the case of Civil Officers, especially in time of war.

“ I must leave to the discretion of the Governments in India the question whether the reports to the India Office should be made by telegram or by letter in the ordinary way. The latter course as a rule will suffice.”

RESOLUTION.—Copies of the letter from the Government of India and of its accompaniment should be forwarded to all

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34. The Revenue, Financial and General Departments of the Secretariat, when sending for publication rules or notifications which, in their opinion, should be made available to the public, should intimate the fact to the Superintendent, Government Central Press, and state at the same time the number of copies which should be separately printed for sale to the public in addition to those required by the respective departments for their own use and for distribution to Government officers. When amendments of rules printed for the public are published, copies thereof should also be printed for sale to the public. In such cases the Superintendent of the Press will be able to judge from the number of copies of the original rules sold and in stock how many copies of the amendments will be required, and he need not, therefore, expect any instructions from Government. (G. R., F. D., No. 2908, dated 20th September 1888.)

35. All communications on the subject of (road) tolls and toll-bars should be addressed to Government in the Public Works Department. (G. M. No. 8444, dated 6th November 1889.)

36. The following Resolution of Government in the Political Department containing orders regarding the channel and the form of communication to be adopted by British officers in addressing Native Chiefs was communicated to all heads of offices under the Revenue Department for information and guidance:—

“The question raised is one as to the channel and the form of communication to be adopted by British officers in addressing Native Chiefs. The particular incident which gives rise to the discussion is a reference made to the Chief of Vála by the High Court in connection with an appeal before it which concerns his status as a ruling Chief; and on the question being raised, the Registrar at once complied with the Political Agent’s suggestion and sent his communication through the Political Agent. It will be observed that in connection with this reference the status of the Chief of Vála as a Foreign Chief had not been decided by any judicial tribunal adversely to him.

“2. It appears to Government that in laying down a rule, two separate conditions of circumstances must be considered. If the subject of the correspondence concerns the Chief as a foreigner and a ruling Chief, the reference should be made through the representative of Government who conducts the relations of Government with the Chief as such. The High Court in the case before them were dealing with the Chief of Vála,

Departments of the Secretariat, except the Marine and the Military Department, for information and guidance, in continuation of Government Resolution in the Revenue Department, No. 218, dated 11th January 1887.

(G. R., G. D., No. 1509, dated 19th May 1887.)

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if not solely in his character as a Chief at least in that character blended with his other character as a British land-holder or British property-holder amenable in respect to such property to the British Courts. The question of the status of the Chief was concerned, and the Registrar very properly dealt with the case as one requiring the approach to the Chief to be made through the diplomatic channel.

“3. But cases do arise in which Chiefs are suitors or sued in British Courts, or are in direct relations as British land-holders with British authorities solely in reference to their interests in British territory. A striking instance of such relations was afforded when in 1866 the High Court issued a writ of attachment of certain property within its jurisdiction belonging to the Indore State in satisfaction of a decree passed in favour of the plaintiff Dādābhāi Jamsetji, who sued His Highness the late Mahārāja of Indore and his partner Kāvasji Jehānghir, trading in linseed under the name of Sadāshiv Mārtand. When it was ascertained that the whole of the property attached was under British law and administration, the Government of India declined to interfere. The principle was laid down that, whatever privileges the Mahārāja enjoyed as a ruling Chief could not accompany His Highness when he assumed the new character of a British trader. In the same way Government, whilst discouraging the acquisition by Native Chiefs of landed property in British India, have laid down that when such Chiefs acquire the position of British land-holders, they place themselves, in respect to that property, in direct relations with the British system of administration and its incidents of liability to stamp duty and revenue regulations. In such cases there is no reason why the intervention of the Political Agent, who represents Government in its dealings with a ruling Chief, should be employed by the Revenue or Judicial authorities who have to deal exclusively with the Chief in a distinct character as a British land-owner or suitor or other private capacity. The form of the communication as well as the channel would be that adopted in the case of British Sardars.”

(G. R., P. D., No. 313, dated 20th July 1893; *vide* G. R. No. 1068, dated 7th February 1893.)

37. The attention of all Departments of the Secretariat should be invited to the necessity of avoiding unnecessary references to the Accountant General and of specifying clearly the points on which his reports are called for, unless the points are obvious.

2. Frequent requests have been made by Government for full compliance with the Code rules and standing orders of the nature referred to in the following rules which should be strictly observed by all heads of offices: -

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1. Every application must contain information upon the following points :

(a) Whether the expenditure has been provided for in the budget.

(b) If no such provision has been made, whether it can be met from savings *under the head to which it will be charged*.

(c) If no such savings are expected, a re-appropriation statement should be submitted.

(d) If not provided for in the budget, why the necessity was unforeseen and why the expenditure cannot be postponed till the next year.

2. Where the application is for additions to, or revision of, establishments, a proposition statement must be forwarded (Civil Account Code, Article 57).

3. Where it is for contingent expenditure, the provisions of Article 98, Civil Account Code, should be kept in view and it must be explained why the charge cannot be avoided.

38. Correspondence upon forest financial matters between Forest officers and the Accountant General should pass through the Collector of the District. (G. R. No. 2564, dated 12th April 1894.)

OPIUM.

I.—APPLICATION OF THE INDIAN OPIUM ACT, 1878.

1. In exercise of the powers vested in him by Section 1 of the Indian Opium Act, 1878, the Governor General in Council is pleased to declare that the aforesaid Act came into force in the territories administered by the Governor of Bombay in Council with effect from 1st April 1878. (G. I., F. & C., Notn. No. 1988, dated 22nd March 1878; *vide* G. N. No. 1563, dated 26th idem.)

(1. *Note.* The Act came into force in Perim and Peint on 18th October 1886 and 1st April 1887, respectively, under G. I., For. Dept., Notn. No. 2362 E, dated 18th October 1886, and G. I., H. D., Notn. No. 480, dated 10th March 1887; *vide* G. N., P. D., No. 6282, dated 27th October 1886, and G. N., J. D., No. 1622, dated 16th March 1887.)

(2. *Note.* The whole Act, except paragraph 3 of Section 1 and the proviso to Section 22, applies to the Cantonment of Deesa; *vide* G. I., For. Dept., Notn. No. 493 I, dated 5th February 1885, republished under G. N., P. D., No. 808, dated 10th idem.)

2. The Governor General in Council is pleased to extend the Opium Act, I of 1878, to the Cantonment of Kolhápúr, subject to the following modifications, namely:—

(1) The second and third paragraphs of Section 1; the definition of "Magistrate" in Section 3; in Section 7 the words "relating to places in the territories to which such order refers"; in Section 12 the words "by the Collector of the District or Deputy Commissioner, or," and the word "other"; in Section 22 the words "by whom the case is to be disposed of" and the proviso; in Section 24 the words "Collector of the District, Deputy Commissioner or other," the words "Collector, Deputy Commissioner or other," and the words "Collector, Deputy Collector or other"; and the Schedule shall be omitted:

(2) For the words "a Magistrate," "the Magistrate," and "the convicting Magistrate" wherever they occur, the words "the Cantonment Magistrate" shall be substituted:

(3) For the words "the Local Government" and "any Local Government" wherever they occur, the words "the Governor of Bombay in Council" shall be substituted:

(4) For Section 2, the following section shall be substituted, namely:—

"2. Act XVIII of 1853 (*An Act for regulating the sale of spirituous liquors, &c., in Cantonments*) is repealed, so far as it relates to opium."

(5) For the definitions of "import," "export," and "transport" in Section 3, the following definitions shall be substituted, namely:—

"'import' means to bring into the Cantonment of Kolhápúr; 'export' means to take out

of the Cantonment of Kollhápur; 'transport' means to remove from one place to another within the Cantonment of Kollhápur":

(6) In the proviso to Section 5, after the words "the law relating to sea-customs for the time being in force," the words "in British India" shall be inserted:

(7) In Section 6 for the words "by land into British India, or into any specified part thereof," the words "into the Cantonment of Kollhápur" shall be substituted:

(8) In Section 5 for the words "the whole or any specified part of the territories administered by such Government"; in Section 7, Clause (a), for the words "the territories administered by such Local Government," and in Section 7, Clause (c), for the words "the territories administered by such Government or into any specified part thereof," respectively, the words "the Cantonment of Kollhápur" shall be substituted:

(9) In Sections 16 and 19 for the words "the Code of Criminal Procedure," the words "the law relating to criminal procedure for the time being in force in British India" shall be substituted:

(10) In Section 19 for the words "the Collector of the District, Deputy Commissioner or other," the word "any" shall be substituted:

(11) For Section 25, the following shall be substituted:—

"25. When any person, in compliance with any rule made hereunder, gives a bond, the whole sum mentioned therein may, upon the breach of any condition thereof, be recovered from him as if it were an arrear of land-revenue."

(12) After Section 25, the following section shall be added, namely:—

"26. Any sum recoverable as an arrear of land-revenue under Section 23 or Section 25 may be so recovered by the Cantonment Magistrate under the provisions, so far as they can be made applicable, of the Bombay Land-Revenue Code, 1879." (G. I., For. Dept., Notn. No. 2923 I, dated 28th August 1885; *vide* G. N., P. D., No. 5380, dated 2nd September 1885, and G. R. No. 7784, dated 25th *idem*.)

3. The Governor General in Council is pleased to extend the Opium Act, I of 1878, to the Cantonment of Bhúj, subject to the following modifications, namely:—

(1) The second and third paragraphs of Section 1; Section 2; the definition of 'Magistrate' in Section 3; in Section 7 the words 'relating to places in the territories to which such order refers'; in Section 12 the words 'by the Collector of the District or Deputy Commissioner, or,' and the word 'other'; in Section 22 the words 'by whom the case is to be disposed of,' and the

proviso; in Section 24 the words 'Collector of the District, Deputy Commissioner or other,' the words 'Collector, Deputy Commissioner or other,' and the words 'Collector, Deputy Collector or other'; and the Schedule, shall be omitted:

(2) For the words 'a Magistrate,' 'the Magistrate,' and the convicting Magistrate,' wherever they occur, the words 'the Cantonment Magistrate' shall be substituted:

(3) For the words 'the Local Government' and 'any Local Government,' wherever they occur, the words 'the Governor of Bombay in Council' shall be substituted:

(4) For the definitions of 'import,' 'export' and 'transport' in Section 3, the following definitions shall be substituted, namely:—

'import' means to bring into the Cantonment of Bhuj; 'export' means to take out of the Cantonment of Bhuj; 'transport' means to remove from one place to another within the Cantonment of Bhuj":

(5) in the proviso to Section 5, after the words 'the law relating to sea-customs for the time being in force,' the words 'in British India' shall be inserted:

(6) in Section 6 for the words 'by land into British India or into any specified part thereof,' the words 'into the Cantonment of Bhuj' shall be substituted:

(7) in Section 5 for the words 'the whole or any specified part of the territories administered by such Government'; in Section 7, Clause (a), for the words 'the territories administered by such Local Government,' and in Section 7, Clause (c), for the words 'the territories administered by such Government or into any specified part thereof,' respectively, the words 'the Cantonment of Bhuj' shall be substituted:

(8) in Sections 16 and 19 for the words 'the Code of Criminal Procedure,' the words 'the law relating to criminal procedure for the time being in force in British India' shall be substituted:

(9) in Section 19 for the words 'the Collector of the District, Deputy Commissioner, or other,' the word 'any' shall be substituted:

(10) for Section 25, the following shall be substituted:—

'25. When any person, in compliance with any rule made hereunder, gives a bond, the whole sum mentioned therein may, upon the breach of any condition thereof, be recovered from him as if it were an arrear of land-revenue.'

(11) after Section 25, the following section shall be added, namely:—

'26. Any sum recoverable as an arrear of land-revenue under Section 23 or Section 25 may be so recovered by the Cantonment Magistrate, under the provisions, so far as they can

be made applicable, of the Bombay Land-Revenue Code, 1879.'

(G. I., For. Dept., Notn. No. 2924 I, dated 28th August 1885; *vide* G. N., P. D., No. 5380, dated 2nd September 1885, and G. R. No. 7784, dated 25th *idem*.)

[*Note*.—By G. R., P. D., No. 294, dated 16th January 1886, the Political Agent, Cutch, was informed that "no action need be taken upon the foregoing notification as long as the present arrangements continued in force in the Bhúj Cantonment."]

4. The Opium Act having by the Notification of the Government of India, No. 1988 of the 22nd March 1878, been applied to Aden as to other portions of the territory administered by the Government of Bombay, any rules that may from time to time be framed and published under the Act apply to Aden. (G. R. No. 8899, dated 4th December 1883.)

II.—ADMINISTRATION REPORT AND RETURNS.

1. The Annual Administration Report of the Opium Department should embrace the period from 1st August to 31st July and should be submitted to Government before the 1st January for transmission to the Government of India before 1st February, *i. e.*, within six months of the date to which it relates. (G. Rs. Nos. 2112, dated 22nd April 1880, and 5015, dated 29th July 1882.)

2. The amount of Government opium sold in each Collectorate should be given in the Annual Administration Report of the Opium Department. (G. R. No. 5605, dated 4th October 1875.)

3. For all practical purposes it will suffice if the Commissioner of Customs, Salt, Opium and A'bkári ascertains from the Accountant General annually the total expenditure recorded in the financial accounts under the head "Excise," and shows in his Administration Reports approximately the proportions which may fairly be held to be for the protection of excise opium and other excise revenue respectively. (G. R. No. 3073, dated 16th April 1885.)

4. It would be useful if the Opium Commissioner could in his Administration Report compare the prices of opium ruling in the Bombay market with those ruling in the Calcutta market in the same way as he compares the prices at the former place with those in China. (G. R. No. 1919, dated 14th March 1891.)

5. Any marked increase or decrease in the number of licensed shops for retail sale of liquors or drugs should be clearly explained in the Annual Excise Administration Reports. (G. I., F. & C., No. 1572, dated 15th April 1891; *vide* G. R. No. 2967, dated 30th *idem*.)

6. A statement showing the number of shops licensed in each district of the Bombay Presidency for the sale of opium and its preparations should be given in either the Annual Opium or the Annual A'bkári Report. The Government of India and the

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Secretary of State frequently require a correct detail of excise licenses of all kinds in order to reply to questions asked in Parliament, and steps should be taken to have complete information on the subject placed on record year by year. (G. I., F. & C., No. 4189, dated 5th October 1891; *vide* G. R. No. 7278, dated 22nd *idem*.)

7. The Commissioner of Customs, Salt and Opium should submit for transmission to the Government of India a monthly return of the number of chests of opium passed at Ahmedabad. (G. I., H. D., No. 814, dated 1st April 1861; *vide* G. M. No. 1707, dated 12th *idem*.)

8. The Commissioner of Customs, Salt and Opium should submit for transmission to the Government of India a monthly list of all vessels leaving Bombay for ports in China with the number of opium chests carried by each. The names of the ports in China to which the vessels are bound should be mentioned in the list. Particulars should also be given in this list of shipments of opium to the Straits Settlements and any other ports besides the China ports (G. I., F. D., Nos. 4018, dated 11th October 1869, 766, dated 29th January 1870, and 452, dated 19th May 1870; *vide* G. Ms. Nos. 4557, dated 22nd October 1869, 650, dated 3rd February 1870, and 2535, dated 28th May 1870.)

III.—DUTIES AND POWERS OF OFFICERS.

1. The Commissioner of Opium Revenue is bound to exercise an intelligent and active supervision over this important source of revenue. It is his duty to watch narrowly the consumption of excised opium in the several Collectorates of the Presidency, and bring to the notice of Government instances where, looking to the extent of the population and the known habits of the people, the amount of such licit consumption must clearly be below what actually takes place. He ought to be alive to the losses that unquestionably result from the extensive system of smuggling that prevails up-country, and should from time to time suggest the adoption of preventive measures. These are some of the points to which the attention of the Commissioner ought to be unremittingly directed. (G. R. No. 4696, dated 22nd September 1871.)

2. As soon as possible after the annual sale of opium licenses is completed, the result of the sales should be reported to the Commissioner of Customs and Opium, with information showing the cause of any difference in the number and locality of shops, the conditions of license, and the amount bid.

The sanction of the Commissioner of Customs and Opium is required for any change in the terms of the sales, conditions of license, or number of shops.

In Sind the full control over the number of shops, their localities and other executive details connected with opium licenses is reserved in the hands of the Commissioner in Sind; but the results of the annual sales, &c., should be reported to the Commissioner of Opium. (G. Rs. Nos. 4610, dated 27th August

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1874, 5200, dated 30th September 1874, and 5579, dated 21st October 1874.)

3. In Sind the Commissioner in Sind is invested with power to sanction all expenditure on opium dead stock, entry of such in the budget, &c., instead of the Commissioner of Customs. (G. R. No. 5570, dated 21st October 1874.)

4. The Deputy Opium Agent at Indore is authorized to supply on payment indents for opium which may be sent to him by the Commissioner of Excise of the Central Provinces. The opium should be sent free of pass fee. (G. Rs. Nos. 5336, dated 18th September 1875, and 6444, dated 18th November 1875.)

IV.—IMPORT AND TRANSPORT OF OPIUM.

1. Under several Local Rules and Regulations, the import of opium from Málwa for local consumption is permitted under passes granted by Revenue officers.

The Governor General in Council has resolved that no pass shall, in future, be thus granted excepting by the Opium Agent at Indore.

Officers desiring to authorize the import of Málwa opium under sanctioned conditions should, accordingly, address the Opium Agent at Indore, who will issue the required passes under such conditions and with such precautions as he thinks necessary for the safety of the opium revenue which he supervises.

Each Local Government concerned will determine and inform the Opium Agent what officers are authorized to move him to issue passes under these orders. (G. I., F. & C., No. 3689, dated 17th November 1879; *vide* G. R. No. 6465, dated 3rd December 1879.)

2. The following are the officers in this Presidency authorized to move the Opium Agent at Indore to issue passes for opium under the above orders :—

- (1) Agent to the Governor General at Baroda.
- (2) Political Agent, Káthiáwár.
- (3) Political Agent, Cutch.
- (4) Political Agent, Mahi Kántha.
- (5) Political Agent, Rewa Kántha.
- (6) Political Superintendent, Pálanpur.
- (7) Political Agent, Cambay.

(G. R. No. 6666, dated 13th December 1879.)

3. Under Rule 14* of the Rules for regulating the traffic in opium in the Bombay Presidency, published in Government Notification No. 4472A,† dated 3rd June 1885, His Excellency the Governor in Council is pleased, in supersession of Government Notification No. 3884, dated 27th June 1887, to

† Printed at pp. 397—417 of the Compilation of General Rules.

*For other notifications under this Rule, *vide* Appendix C at page 427 of the Compilation of General Rules.

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appoint the Sábarmati Railway Station to be the station at which opium brought by the Rájputána-Málwa Railway and booked through for stations north and south of Ahmedabad shall be detained and examined. (G. N. No. 6045, dated 8th September 1887.)

4. With reference to Rule 14* of the Rules for regulating the traffic in opium in the Bombay Presidency, published under Government Notification No. 4472A, dated 3rd June 1885, His Excellency the Governor in Council is pleased to appoint the Nándgaon Railway Station in the district of Násik on the Great Indian Peninsula Railway to be the station at which opium booked through from Indore for the Aurangábád Opium Warehouse in the territory of His Highness the Nizám shall be detained and examined. (G. N. No. 3243, dated 12th May 1891.)

5. It is unnecessary to examine and weigh at Ahmednagar every consignment or parcel of opium arriving by rail at that place *en route* to the Madras Presidency, but it is desirable such consignments should occasionally be examined and weighed. (G. R. No. 1489, dated 22nd March 1880.)

6. Opium taken by the opium farmer of the Khándesh District to Jalgaon for consumption in Eastern Khándesh should be examined at the Jalgaon Railway Station by a responsible officer of the A'bkári or Land Revenue Department. (G. R. No. 8120, dated 17th November 1890.)

7. Under the provisions of Section 12 (c)† of the rules framed under Sections 5 and 13 of the Opium Act, 1878, and published by Notification No. 4472A at pages 704 to 715 in Part I of the *Bombay Government Gazette* of 1885, His Excellency the Governor in Council is pleased to permit the direct importation of opium from Málwa or Meywár into the district of Surat for retail sale in the said district by the person duly licensed to retail opium in that district subject to the following conditions:—

(a) All opium so imported shall be subject to the rate of duty imposed, for the time being, on opium imported into the Presidency of Bombay for home consumption, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rule 17 of the rules under the Opium Act, 1878, for the payment of duty on opium intended for exportation by sea.

(b) All opium so imported into the Surat District shall, on arrival, be deposited in the Government Treasury at Surat.

* For other notifications under this Rule, *vide* Appendix C at page 427 of the Compilation of General Rules.

† For other notifications under this Rule *vide* Appendix A at pp. 425-426 of the Compilation of General Rules

(c) Opium deposited as aforesaid will remain there at the risk of the importer, who shall be at liberty to keep it in his own boxes and under his own keys and seals and to remove it to his shops at such times as the Collector of the district may determine and in such quantities at a time as he may require for use, not being less than the minimum quantity to be fixed by the Collector; he shall not be entitled to have access to the place of deposit except during office hours, nor without special permission of the Collector or other officer duly empowered by the Collector to grant such permission.

(d) The quantity of opium to be removed from the place of deposit shall, on each occasion, be presented to the officer in charge of the place for weighment and registration, and shall be covered by a pass in the Form C attached to the rules. (G. N. No. 2533, dated 11th April 1893.)

V.—POSSESSION OF OPIUM.

1. Government do not consider that sufficiently strong grounds have been shown for moving the Government of India to modify the amendment of the Opium Rules reducing the quantity of opium, which may be legally possessed, from ten to two tolas.

It appears to His Excellency the Governor in Council that the difficulties in the way of working the special permit system have been somewhat over-estimated. It is not necessary that a fresh permit should be granted every time a man wants to buy opium, nor that the power of granting such permits should be confined to one officer, though care would of course have to be taken that they were not made use of to cover possession of smuggled opium. It is the desire of Government that everything possible should be done to meet difficulties by the grant of special permits to persons such as sea-faring men and others whose habits or avocations would make it a hardship to enforce the rule strictly. (G. L. to Comr. of C., S., O. & A., No. 286-P, dated 1st August 1893: *vide* also G. L. to G. of I. No. 5859, dated 12th *idem*).

2. The special permits referred to in Rule 6(b)* of the rules under the Opium Act should be in the annexed form. This form should be printed trilingually—(a) in English and Gujaráti, (b) in English and Maráthi, and (c) in English and Kánarese:—

* Rule 6 (b).—The Collector may grant to any person a special permit authorizing him, for a specified period, to have in his possession for private consumption only a specified quantity of opium in excess of 2 tolas.

† Print.
pp. 397-
of the Co-
lation of Ge-
neral Rules.

Special Permit for the possession of opium in excess of 2 tolas for private consumption.	Special Permit for the sale of opium in excess of 2 tolas for private consumption.	Special Permit for the possession of opium in excess of 2 tolas for private consumption.
No. , dated 189 .	No. , dated 189 .	No. , dated 189 .
Name of applicant	To The Opium Retail Shop-keeper at	of táluka, zilla, is hereby
Residence	You are hereby authorised to sell tolas of opium to of táluka for private consumption on the occasion of	authorised to purchase tolas of opium from the opium retail shop at and to keep the same in possession for use on the occasion of
Quantity of opium to be possessed	This permit shall be valid up to the day of 189 inclusive.	This permit shall be valid up to the day of 189 inclusive.
Shop at which to be purchased		
Occasion on which to be used		
Duration		
Collector (or other officer empowered).	Collector (or other officer empowered).	Collector (or other officer empowered).

(G. R. No. 2844, dated 22nd April 1893.)

VI.—SALES, FARMS AND LICENSES.

1. Great care should be taken to ascertain that tenderers for opium farms are men of substance and to see that suitable security is taken for the due fulfilment of the contracts immediately the tenders are accepted. (G. R. No. 7495, dated 22nd October 1886.)

2. The departmental sale of opium is on no account to be permitted. The object of Government is not to promote, but rather by taxation to restrict, the consumption of opium. In places where the sale of opium is obviously insufficient, and a license is taken out merely as a cloak for smuggling, it is better to stop issuing licenses. (G. I., F. D., No. 870, dated 31st January 1874; *vide* G. R. No. 836, dated 16th February 1874.)

3. Licenses for the retail sale of opium should be issued, and all opium accounts as well as the opium administration report should be framed, for the revenue year. (G. R. No. 1421, dated 15th March 1879).

4. With a view to distinguish licit from illicit opium, the opium balls issued from Government depôts should have a narrow strip of calico or tape threaded through them, brought round, and the ends tied together and sealed. A small piece of paper or cloth should be placed between the opium and the ends of the strip of calico or tape which are to be tied and sealed, so as to prevent the wax from actually touching the opium. This plan should be adopted, except in districts like Karáchi, where the quantity issued to licensed vendors at a time is less than one entire ball of opium.

(2) The licensed vendor should be required in retailing opium to cut off as far as possible only the required quantity from the sealed balls in the presence of customers, and should be ordered not to have in his possession more than one broken ball of opium at a time for sale to customers.

(3) The Collectors of Districts should issue notices, to be posted at all the principal market towns

and retail shops in their respective districts, with a view to acquaint the public with the plan which has now been adopted for distinguishing licit from illicit opium and with the orders to licensed dealers which will be issued under paragraph 2.

(4) In the form of license for the retail sale of opium a clause should be inserted formally binding licensed dealers to conform to the orders which under paragraph 2 will be communicated to them.

(5) Táluka Revenue officers and officers of the Police Department of such rank as the Commissioners of Divisions and the Commissioner in Sind deem suitable should examine opium shops when on tour within their charges and report to the proper authorities any breach, by dealers in opium, of the conditions of their licenses or any suspicious circumstances in connection with opium sales which may come to their notice. (G. Rs. Nos. 1658, dated 11th March 1882, 444, dated 19th January 1883, 2383, dated 19th March 1884, and 3020, dated 10th April 1884.)

5. The system in force in the Bengal Presidency, under which agreements are not taken from retail vendors of opium, but licenses are granted subject to a deposit of two months' fees paid in advance, should be adopted in this Presidency. (G. R. No. 9061, dated 10th November 1885.)

6. His Excellency the Governor General in Council has come to the conclusion that it is expedient to try the experiment of inserting in the licenses, in all provinces, clauses prohibiting the smoking, or the consumption of opium and its preparations in any other form, on the premises, and directs that when the term for which any existing licenses are in force expires, in any licenses which may be renewed a clause should be inserted, prohibiting the consumption of opium on the premises in any form. (G. I., F. & C., No. 4033, dated 25th September 1891; *vide* G. R. No. 7162, dated 17th October 1891; *vide* also G. R. No. 4813, dated 8th June 1892.)

7. In license forms for the sale of either opium or intoxicating drugs there should be no provision worded in any way which might convey the impression that the licensee is required to sell a definite amount of the opium or drugs covered by his license. (G. I., F. & C., No. 2559, dated 17th June 1892; *vide* G. R. No. 5432, dated 2nd July 1892.)

8. In the following letter No. 4120, dated 1st October 1891, the Government of India suggested the abolition of the system of a minimum guarantee for opium vend in the Bombay Presidency* :—

*In the thirteen districts named in the margin, in which the minimum guaranteed vend system had been in force, it was stopped under the orders passed in Government Resolution No. 4721, dated 4th June 1892, and the following plan was tried for one year in the first instance :—

Ahmedabad.	Kolába.
Kaira.	Násik.
Panch Maháls.	Khándesh.
Broach.	Ahmednagar.
Surat.	Poona.
Thána.	Sholápur.
	Sátára.

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"In his despatch No. 10 (Revenue), dated the 30th July 1891, and addressed to His Excellency the Governor in Council, Bombay, the Secretary of State has said that he would be glad to learn the views of the Bombay Government as to the practical effect of the system of guaranteed minimum vend in the case of licenses for the sale of opium, and the advisability of maintaining or changing that system.

"2. The question involved has been recently considered by the Government of India in connection with the facts brought to notice in your letter No. 4911, dated the 18th July 1891. In paragraph 3 of that letter it was explained that the continuous increase in the amount of licit opium consumed in the Presidency during the last ten years was entirely due to the measures taken to check opium-smuggling, and to substitute licit opium for the contraband opium which formerly formed the bulk of the consumption. The measures referred to were introduced for the first time in a few districts in 1877-78, and by degrees their operation has been extended to the whole Presidency including Sind.

"3. I am now directed to request you to lay before His Excellency the Governor in Council the views of the Gov-

The farm of each district was lot out on the existing license conditions, except those penalising the farmers for sales below a fixed standard.

The farmers were required to pay no fee for their licenses, but in lieu thereof they were required to maintain additional establishments for the supervision of their retailers, and for the prevention of smuggling.

2. The following further observations and orders were made in the same Resolution :—

"The Governor in Council is aware that this system is open to the objection that Government have no substantial hold on the farmers, who will not incur any penalty in the event of their supervision over their retailers being lax, or of their management being inefficient, and they may perhaps connive at the sale of illicit opium by their servants. But in the opinion of the Governor in Council it is better to have one substantial man answerable for the importation and distribution of licit opium in districts where the consumption is considerable, assuring to him sufficient profit to make it worth his while to deal honestly, rather than to license a number of separate retailers each of whom would have to make his own arrangements for procuring opium for retail sale.

"In the six districts of Belgaum, Dhárwár, Bijápur, Kánara, Ratnágiri and Aden the present system may continue, excluding minimum vend conditions, if any exist, from the licenses.

"In each case the Commissioner will have to exercise great care to secure the most trustworthy man offering for the farm.

"As regards Sind, the orders passed above (in paragraph 1) should also be applied."

Following the principles laid down in Government Resolution No. 4721, dated 4th June 1892, it was directed in Government Resolution No. 4596, dated 26th June 1893, that the opium farm in the Town and Island of Bombay should be disposed of on the assumption that consumption on the premises will be prohibited in the farmer's own shops, that no special chandul and madat shops will be licensed, and that sales to the public must be limited to 2 tolas to one person at one time. It was further ordered that the farmer should be required to pay, in addition to the license-fee of Rs. 300 a month, any contribution that the Commissioner may see fit to demand for the establishment for supervision and detection under the authority vested in him by Rules 39 and 40 of the Opium Rules, and that in the license granted to the farmer there should be no penalty clause for sales below a fixed standard.

ernment of India upon this question. The Secretary of State and the Government of India are aware that the measures adopted by the Bombay Government have had their origin in a desire to restrict consumption and at the same time to prevent illicit dealings in the drug. Before the passing of the Opium Act I of 1878 it was the practice to auction the licenses for retail sale for periods of one year at a time, the license being granted to the person who offered the highest price for it. The licensee was bound to purchase the opium required by him from the public depôt, but it was found that in fact very little opium was so taken by him, his requirements being supplied for the most part by illicit importations. The total amount of duty-paid opium sold in the Presidency at the time was less than 40,000 lbs. a year, while the license fees realised upwards of Rs. 1,30,000. In some cases the disproportion between the amount paid for the license and the amount of licit opium sold was so glaring as to show conclusively that the license was in reality only intended to cover the licensee's transactions in smuggled or illicit opium. There was consequently a large loss of public revenue, while the consumption of opium was being encouraged owing to a great portion of the opium consumed in the province escaping taxation. The arrangements were, moreover, open to very strong objection on the grounds that no efficient control could be exercised over the opium shops; that the real amount of opium consumed could not be known, and that there was no proper security against undue encouragement of a taste for the drug among the people.

"4. To meet these difficulties the Bombay Government gradually, from the 1st June 1878, introduced a system under which tenders were invited for opium licenses on a new system, the special object of which was to discourage illicit sales and ascertain the true vend of the various shops, the taxation on the drug being intended to be levied rather in the shape of duty on opium consumed than of fees for licenses to open shops. The method by which it was sought to secure these objects was to give preference to the tenderers who undertook to sell the largest quantity of opium per month on pain of forfeiture of a money deposit proportionate to the amount of vend stipulated for, the licensees being authorized to provide themselves with opium direct from the wholesale dealers instead of from public depôts, subject to a condition that the opium purchased by them should be duty-paid opium. Under this system the temptation to use the license as a cloak for the sale of smuggled opium practically disappeared, because the duty must in any case be paid whether the licensee sold smuggled or duty-paid opium, and, as a consequence, the amount of licit opium consumed increased largely year by year as the system was gradually extended, until, now that it is in force in all but five districts of the Presidency, the total amount of pass duty realised is more than four times as great as in 1878-79. The Government of India accept the conclusion that this result has been hitherto attained mainly by repression of opium-smuggling, and that the minimum guarantee system has produced satisfactory results in so far as under it consumption is discouraged by levying a heavy tax on all opium consumed.

"5. The system of guaranteed minimum vend is, however, open to misconstruction by persons not fully acquainted with the facts and can be made the subject of plausible misrepresentation. It can hardly be disputed that, to those who are unaware of the difficulties in consequence of which the present system was introduced, the practice of requiring opium farmers to guarantee the sale of an amount of opium large in itself, and in some cases above the reported sales of previous years, is on the face of it open to objection. The amount guaranteed has not on the whole increased much during the last six years, and it

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may be anticipated that the orders contained in the Bombay Government Resolution No. 4857, dated 8th July 1889, will have already effected a substantial decrease during the current year. Nevertheless the fact remains that the system appears to afford justification to some extent for the accusation that the Government is directly encouraging the consumption of the drug, and it is in this view that the Government of India now desire to press for the abolition of the system and a return to the ordinary licensing system which is generally in force in other Provinces, or the adoption of such other system as the Government of Bombay may consider calculated to ensure the full taxation of all opium consumed.

"6. The Governor General in Council has the less hesitation in suggesting this change, as there is some reason to believe that the object with which the present system was introduced has already been attained. The natural level of consumption, including both illicit and duty-paid opium, has been ascertained with, at any rate, approximate accuracy, and competitors for a license are now ready to guarantee a larger vend than they have any expectation of realising. The privilege of exclusive vend is so valuable that they can afford to pay a large sum out of their profits to make up deficient pass duty, and the amount which they calculate on having to make good in this way represents the value of the exclusive privilege of sale over and above the license fee and the duty on opium actually sold. In other words, the contractors are now practically paying under another name what ought properly to be charged to them as license fees, and the Government is exposed to the charge of stimulating consumption without obtaining any actual benefit, if, as appears probable, the taxation of opium might be maintained as high as it now is by levying additional license fees equal in amount to the pass duty paid on deficient sales.

"7. The statistics of opium revenue and consumption for the last ten years, the remarks on the subject contained in paragraph 5 of the Government Resolution on the report for 1887-88, and the circumstances detailed in the Confidential memorandum forwarded with your letter No. 7232, dated the 11th October 1890, appear to support the view stated in the last paragraph, and it is observed that the Government of Bombay has already, in its Resolution of the 8th July 1889, prescribed that the amount of the minimum guarantee should no longer be fixed by competition. The experiment is being tried of leaving the Commissioner to determine the amount of the guarantee in each district at his own discretion. The Commissioner is instructed to be careful not to overburden farmers, and to fix the guaranteed minimum vend rather below than above his own estimate of the normal demand, and, having fixed the amount, he is to call for applications on those terms and give the farms to the persons whom he may consider most likely to conduct the business satisfactorily. While fully admitting that this modification of the system renders it less open to objection and misconstruction, the Government of India believe that His Excellency the Governor in Council will recognise that it is inadvisable to adopt any half-measures of the kind as the basis of a permanent policy. The objections which can be stated against the system lose little of their apparent force even when a very moderate estimate is made of the amount to be guaranteed, and it is the apparent rather than the real force of these objections which renders it necessary to modify the existing system. The ordinary demand of the districts has now been ascertained; the preventive establishments are much stronger than they were 13 years ago; and it is hoped that they may be able to prevent smuggling and illicit practices without the aid of the guaranteed minimum system.

"8. Under these circumstances the Government of India trust that the Government of Bombay will see their way to try the experiment of abolishing the system of a minimum guarantee for opium vend on the earliest possible opportunity. The system has been of value during the past 13 years and has made control over the consumption of opium an easier task than it was in 1878-79. Much experience has been gained and smuggling has been successfully combated. The Governor General in Council hopes that the officers of the Opium Department will now be able to introduce a system which does not involve a minimum guarantee, and to work it successfully without serious risk of a revival of the difficulties met with in earlier years, and he desires that steps may be taken at once to consider the question in time to enable the proposed change to be carried out from the beginning of the next revenue year."

(G. R. No. 7645, dated 26th September 1892.)

VII.—ARRANGEMENTS WITH NATIVE STATES.

1. Presuming that all opium to which concessions of duty drawback are made will be for consumption only in the Native States in whose name the concessions are made, opium might most conveniently be sold free of duty, when purchased from a depôt where duty has not already been levied; and in this case no adjustment on account of remission of pass duty would be necessary in the financial accounts which are intended to show actual cash receipts and payments. If any account of opium remissions is required to be kept, it should be shown in the stock account of opium kept by the Commissioner of Customs by foot notes. But when purchased from a depôt where the duty on it has already been levied, the duty should only be refunded on the production of the Political Agent's certificate to the effect "that the opium so sold has been received into the State applying for it." This certificate should be forwarded to the Accountant General's office. (G. R. No. 6637, dated 24th December 1878.)

2. The proposal that full pass duty be levied at the scales on all opium exported to the States in the Bombay Presidency which are parties to the arrangements made in 1878, a refund being made of such portion of the duty as the States may be entitled to on proof of the arrival of the opium at its destination, and of the levy of the full pass duty by the States themselves does not commend itself to the Government of India. It would be distasteful to the Chiefs of these States, as it would subject them to the inconvenience and discredit of submitting bills for audit and adjustment; and this audit would be the occasion of considerable trouble to the Account officers, while delay would sometimes result in the payment of the duty to be refunded. And it seems important not to put any avoidable obstacle in the way of these States in obtaining opium licitly, lest any encouragement be thereby given to smuggling. The important point is to limit the supply of opium to these States. If this is done, it appears to be comparatively of little importance whether the opium is delivered free of duty, or the duty is levied at the

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scales and afterwards refunded. The Governor General in Council therefore considers that the Government of Bombay should in communication with the Political Agents of the States concerned fix the amount of opium which may be imported free of duty or on payment of reduced duty into each State; and that that amount only should be permitted to pass the scales otherwise than on payment of the full duty. The necessary intimation would of course have to be made to the Opium Agents at Indore and Ajmere. (G. I., F. & C., No. 3295, dated 1st October 1881; *vide* G. R. No. 6212, dated 21st *idem*; *vide* also G. R. No. 7109, dated 23rd November 1881.)

3. The Chiefs of Káthiáwár should be encouraged to make their own arrangements for their supply of opium subject to the restrictions of the opium rules. (G. R. No. 6892, dated 18th November 1881.)

4. Seeing that Government have obtained from the Káthiáwár Chiefs an engagement neither to cultivate nor import opium, in return for which the Government undertake to supply them at a cheap rate with the quantity they are supposed to require for their own use, duty should not be demanded in cases where the Political Agent is satisfied and certifies that they are proceeding on a journey, or will be absent from Káthiáwár for a given period, and that the quantity of opium to be taken with them is reasonable. That should be stated in the pass and should be the authority for its being passed free of duty by the officers of Government. (G. R. No. 1981, dated 28th March 1876.)

5. The prohibition contained in the notice* issued under Government Resolution, Public Works Department, Railway, No. 1318, dated 29th May 1885, does not apply to the Káthiáwár Chiefs, who are allowed to take with them into British territory a reasonable quantity of opium covered by a pass as permitted by G. R. No. 1981, dated 28th March 1876, nor to persons travelling by rail in the native territories of Káthiáwár. Government also will not object to add to the exemption from the notice of persons of distinction holding a pass from the Political Agent, Káthiáwár, but this should be limited to brothers of Chiefs, Head Kárbháris and the like, and cannot be extended to all bháyát and girásiás or officials. The Political Agent must be held responsible that the concession is not abused. (G. Rs. Nos. 6015, dated 25th July 1885, 6895, dated 26th August 1885, 10220, dated 19th December 1885, and 3514, dated 14th May 1886.)

6. It was stipulated with the Káthiáwár Chiefs by the Political Agent in 1820 that of the sale.

* "Any passenger coming from abroad will be liable to be detained and prosecuted if found, on and after entering the limits of the Bombay Presidency, to be in possession of more than 2 tolas of opium. A licensed opium shop exists near the ^{Ahmedabad} ^{Bhusával} Railway Station, at which passengers may buy opium up to 10† tolas each."

† 2 tolas, as reduced in 1892, *vide* G. N. No. 6487, dated 10th August, 1892. B. G. G., 1892, Pt. I., p. 602.

proceeds of confiscated opium $\frac{1}{3}$ rd should be paid to the capturer and $\frac{2}{3}$ rds to the Chief of the place where the opium was seized. This is still done where the Chief or his servants have taken part in the capture. The same practice appears to have existed in Rá-dhanpur, and it is evidently good policy, and should be permitted in all the Native States. On this principle confiscated opium may be dealt with as follows :—

(a) The Chief should send the capture to the Political Agent or depôt with a list of rewards awarded. The opium should be taken into stock and dealt with under Rules 53 and 54 of the Rules under the Opium Act. A separate account should be kept of confiscated opium. When it is issued from the depôt, the sale-proceeds should be adjusted thus: the amount of the pass-fee (if any) should be credited to Government; the rewards should be paid to the captors, and the balance should be given to the Chief.

(b) If the confiscated opium is of inferior quality and is issued at a lower rate, the pass-fee (if any) may be reduced from the full pass-fee in the same proportion by which the price is reduced below the full price.

(c) If the opium is destroyed as unfit for use, the reward for seizing it need not be large, and should be paid from a fine to be taken from the smuggler.

(d) When the opium is of quality equal to that in the depôt, the rewards not exceeding $\frac{1}{3}$ rd of the value may be paid by Government at once. (G. R. No. 3620 dated 10th July 1879.)

7. Confiscated opium seized in any part of His Highness the Gáekwár's territories, if it cannot be dealt with on the spot, should be transported through British territory under the ordinary procedure prescribed by the rules under the Opium Act. (G. R. No. 3018, dated 7th June 1879).

VIII.—SMUGGLING.

1. The Commissioner of Customs, Opium and Abkári should from time to time report to Government how the opium revenue is progressing, and if from any information received by him he is led to believe that smuggling is increasing, or is materially interfering with the public revenue, he should at once bring the matter to the notice of Government and suggest such means as appear to him most calculated to put a stop to the contraband traffic in the drug. His Excellency the Governor in Council would in the meantime impress upon all officers in British districts where opium is largely consumed, and also on all political officers in frontier districts the necessity for the keenest attention to this subject. They should direct their most zealous and energetic efforts to the suppression of opium smuggling and the detection and punishment of the smugglers. On the interest taken by them in the matter and on the vigilant supervision exercised by them over

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their subordinates the success of the measures already adopted must in great measure depend. Government feel convinced that their officers will efficiently discharge their duties in this respect, but deem it necessary to add that should any officer fail to devote due attention to this important branch of his work severe notice will be taken of his remissness. (G. R. No. 3786, dated 21st July 1880.)

2. The Commissioners of Police, N.D., C.D., S.D., and in Sind should impress upon all Superintendents of Police within their Divisions that the suppression of opium smuggling is one of the most important duties of the Police and that Government will visit with extreme displeasure any want of zeal in this respect. (G. R. No. 1424, dated 3rd March 1882.)

3. His Excellency the Governor in Council must insist that the prevention of contraband trade in opium should receive careful and constant attention from Revenue officers. Encouragement should not be given to petty prosecutions, but it must be remembered that smuggling may be carried on by the introduction of numerous small parcels as profitably as by large importations and with less risk. (G. R. No. 6220, dated 15th September 1887.)

4. Whenever any important seizure of contraband opium is made, general publicity should be given among the Police and Magistrates to the method of smuggling adopted in the case. (G. I., F. & C., No. 668, dated 27th April 1882; *vide* G. R. No. 3366, dated 22nd May 1882.)

5. The law regulating the import of opium is drafted on the same lines as all other customs laws regulating the import of dutiable articles, *i. e.*, the importation, in any quantity, without payment of duty is absolutely prohibited. Opium-smuggling is now chiefly carried on over the railways, and it is not at all desirable to relax the provisions of the law as regards railway traffic. The Police officer posted to Bhusával should be a discreet and intelligent officer, and he should be instructed not to prosecute cases in which *bona-fide* passengers by railway passing through Bhusával are found with not more than two tolas of opium in their possession. An opium shop might at the same time be established close to the Bhusával Railway Station, and notices posted at all the Railway stations in Central India and Rájputána and in all the carriages travelling on all the railway lines in Central India and Rájputána warning travellers against carrying untaxed opium into British territory (G. Rs. Nos. 2047, dated 7th March 1884, and 2710, dated 29th *idem*.)

6. There is no legal claim on the part of a Railway Administration as against Government in respect of freight on opium which has been transported over their line in contravention of the provisions of the Opium Act and has been seized and confiscated in consequence. The provisions of the Railway Act, 1890, in no way repeal or alter those of the Opium Act, 1878. By the latter Act opium transported without a license is liable to be seized and confis-

cated, and a Railway Company can have no right to such opium as against Government or to detain the same. Their claim under the Railway Act is against the owner or consignee or, under Section 55 (3), against any other goods belonging to the same owner or consignee as may be in, or thereafter come into, their possession, and Government does not by enforcing the provisions of the Opium Act in any way assume or incur the liabilities of the consignees or owners under the Railway Act. In cases, however, where the offender is not known and the Railway Company or their servants have contributed to the discovery of the contraband opium, His Excellency the Governor in Council is willing that as a matter of equity and good policy the Collector in passing orders under Section 12 of the Opium Act should allow the Company, out of the proceeds of the opium, the highest charge they would have been entitled to make, in addition to any individual rewards that may be warranted by the circumstances. When neither the Company nor their servants have had any share in the detection, there would seem to be no good reason for allowing anything beyond perhaps the freight charged on the declaration. (G. R. No. 4682, dated 29th June 1893.)

7. All District Collectors and Deputy Commissioners should be informed that although any opium, however small the quantity, on which pass fee has not been paid, or which has not been exempted by competent authority, becomes, strictly speaking, contraband on being brought into British territory, it is nevertheless undesirable that persons entering British districts from Foreign territory and bringing with them small quantities of opium for immediate personal use should be prosecuted unless the quantity so brought exceeds two tolas in weight, or unless there is reason to suppose that advantage is being taken of the concession to defraud the revenue. No prosecution should in any case be instituted in respect of quantities of opium below the limit of two tolas, for possession of which no license is required, unless there is clear evidence that the opium is otherwise contraband. (G. R. No. 8776, dated 29th November 1893.)

8. With a view to reduce the work involved to local officers in reporting cases of opium-smuggling, the following tabular statement is prescribed for adoption:—

1	2	3	4		5	6	7
Name of District.	Name and residence of accused.	Quantity of smuggled opium seized.	Province or Foreign State or village (if known) whence the opium was brought.		Supposed destination of the opium.	Whether brought by railway or road.	Designation of convicting Magistrate, date of conviction, punishment inflicted and rewards paid, with any remarks which the local authorities desire to offer.
			(a) As stated by accused.	(b) As shown by the evidence.			

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Petty cases of opium-smuggling in which convictions have been recorded should be reported half-yearly to the Government of India in the Finance and Commerce Department in the form of the above statement.

Important cases (*i.e.* those in which the quantity of opium seized exceeds 40 lbs. in weight, or in which any new information regarding organized and systematic smuggling is disclosed) should be submitted in the prescribed tabular form without delay, together with such special report as the circumstances may call for, for the information of the Government of India. (G. I., F. & C., No. 2712, dated 23rd May 1887; *vide* G. R. No. 3989, dated 1st July 1887; and G. I., F. & C., No. 5953, dated 30th December 1890; *vide* G. R. No. 447, dated 19th January 1891.)

9. The Commissioner of Customs, Opium and A'bkári in submitting reports regarding important cases of opium-smuggling should send a complete copy of the proceedings in each case for transmission to the Government of India. (G. R. No. 5121, dated 2nd August 1882.)

10. The statements of petty cases of opium-smuggling should be forwarded by Magistrates of Districts and Political Officers to the Commissioner of Customs, Salt, Opium and A'bkári within a fortnight from the date of the expiry of the half-year. The returns when received in the Commissioner's office should there be compiled into a general statement for the Presidency inclusive of Sind, which should be submitted to Government within one month from the date of the expiry of the period to which it relates. (G. R. No. 3730, dated 9th May 1884.)

11. In cases of opium-smuggling the Commissioner of Opium should use every endeavour to obtain and record information as to the place whence the opium was brought and its destination. This information will be useful to the Commissioner in devising means and taking measures for the prevention of smuggling. (G. R. No. 411, dated 17th January 1891.)

12. Information in regard to all important cases of opium-smuggling which may be detected and tried in the Native States in the Bombay Presidency should be furnished to the Government of India in the same way as cases of smuggling in British territory are reported. (G. I., F. & C., No. 3744, dated 14th September 1882; *vide* G. R. No. 7194, dated 16th October 1882.)

13. The statements of opium-smuggling cases called for by the Government of India are evidently intended by that Government to be a record of all petty cases of opium-smuggling occurring in this Presidency, whether detected and tried in Native States or in British territory. (G. R. No. 5012, dated 21st June 1884.)

IX.—REWARDS.

1. Rule 56 of the rules under the Opium Act leaves it to the discretion of the Magistrate whether he will grant a reward or not in cases of opium-smuggling, but it seems expedient that rewards should be freely granted to stimulate the zeal of the preventive men. (G. R. No. 3473, dated 2nd July 1879.)

2. In the interests of the public revenue it is desirable that rewards in cases of opium-smuggling should always be granted when fairly earned. (G. R. No. 273, dated 16th January 1882.)

3. The attention of the Magistrates in this Presidency is requested to the fact that a liberal treatment of informers in opium-smuggling cases is likely to be of much use in checking defeat of the law. (G. R. No. 2281, dated 14th April 1888, and G. R., J. D., No. 2255, dated 28th idem.)

4. Whenever informers in opium-smuggling cases refuse to pass a receipt for the reward disbursed to them, the payment should be admitted on the production of a receipt signed by the disbursing officer and countersigned by the controlling officer and subject to the condition that the gazetted officer to whom the disbursing officer is immediately subordinate should certify on the receipt that he has satisfied himself that payment has been made to the rightful claimant. (G. R. No. 3698, dated 29th May 1890.)

5. The rules under the Opium Act do not authorize the handing of rewards for the detection of opium-smuggling to the Traffic Manager of a Railway for distribution, as he is not a head of a Department in the sense of the rule. The rewards to be given to employes of the G. I. P. Railway may, as desired by the authorities of the Railway, be limited to one month's pay in ordinary cases. The Superintendent of Police is responsible that petty annoyance is not caused to third class passengers by constables under the pretence of a search for opium. Government have no reason to suppose that this abuse of authority exists, but it must be guarded against. (G. R. No. 7394, dated 29th October 1887.)

X.—INTERPRETATIONS, LEGAL OPINIONS, &c.

1. No restriction is placed by the Opium Rules on the free transport and sale of poppy seeds. (G. R. No. 756, dated 14th February 1880.)

2. Section 3 of the Opium Act, 1878, provides that, unless there be something repugnant in the subject or context, 'opium' includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy.

* Printed at pp. 397 *et seq.* of the Compilation of General Rules.

In the rules* made under Section 5 of the Act, 'opium' has the meaning defined in the Act.

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In the Rules Nos. 39, 40, 43 and 44, 'opium' and 'intoxicating drugs prepared from the poppy' are distinguished; and licenses may be allowed for the retail of opium and for the manufacture or retail of intoxicating drugs prepared from the poppy.

It is obvious that in these rules the word 'opium' does not include 'intoxicating drugs prepared from the poppy,' and that a license granted under these rules for the retail of opium does not include the manufacture or retail of any intoxicating drugs prepared from the poppy.

In the same way in Rule 22, where the manufacture of opium into 'chandul' is allowed, it is clear that the word 'opium' does not in this instance include 'chandul.' (L. R. No. 1537, dated 28th November 1882; *vide* G. R. No. 8728, dated 12th December 1882.)

3. The Opium Act contemplates the powers under Section 14 thereof being vested in real officers of the opium and other Departments, and it would be a straining of the meaning of the law to make certain persons (such as the opium farmer and his detectives) officers with no duties and no powers other than those under that section. (L. R. No. 567, dated 30th April 1883; *vide* G. R. No. 3698, dated 14th May 1883).

4. Mámílatdárs are authorized to act under Section 24 of the Opium Act by Judicial Department Notification No. 3578, dated 20th June 1879. An appeal lies under Section 203 of the Land Revenue Code to the Commissioner of the Division and not to the Commissioner of Opium against an order passed by a Collector on appeal from an order passed by a Mámílatdár under Section 24 of the Opium Act. (L. R. No. 149, dated 28th January 1885; *vide* G. R. No. 1108, dated 6th February 1885.)

5. A farmer of opium-revenue cannot obtain the assistance of a Revenue officer to recover from his licensee's surety any sum which may be due to him by his licensee.

By Section 24 of Act I of 1878 an opium farmer may obtain the assistance of the Collector or other authorized officer to recover the amount due to him by his licensee, and such officer may in his discretion recover such amount as if it were an arrear of land revenue. In this section no allusion is made to the licensee's surety, although in the previous section the opium farmer's own surety is distinctly mentioned as liable.

The inference from Sections 23 and 24 of this Act appears to be that though the farmer's surety is liable, the licensee's surety is not liable to summary process.

Turning to Section 187 of the Land Revenue Code it is there provided that all persons who have become sureties for any such contractor as aforesaid, *i. e.*, contractor for the farm of any description of revenue, shall on failure to pay the amount or any

portion thereof for which they 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. Here the contractor's surety is made liable, and the interests of the revenue are thereby protected; but the provision cannot be extended beyond the terms of the section, and there is nothing in the section to warrant its application to the surety of the contractor's licensee. As regards him, therefore, the contractor must be left to find the ordinary remedy by means of the Civil Court. (L. R. No. 753, dated 23rd June 1885; *vide* G. R. No. 5669, dated 14th July 1885.)

6. The following judgment was passed by the High Court of Bombay in the case of *Imperatrix vs. Pirsha Bachalsha*, Appeal No. 98 of 1885:—

“The accused was convicted by the First Class Magistrate under Section 9 (c) of the Opium Act (I of 1878) of the offence of possessing opium in contravention of the Act and of the rules made under it. The Sessions Judge has reversed that conviction. But it appears that *chandul*, a preparation of opium, was found in the possession of the accused. Section 10 of the Act provides that ‘in prosecutions under Section 9 it shall be presumed, until the contrary is proved, that all opium for which the accused is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.’ The accused in this case has not accounted for his possession at all. Therefore the Magistrate was right in convicting him, and the Sessions Judge ought not to have reversed that conviction. The Government Pleader in the Court below seems not to have been properly instructed and the Sessions Judge was not shown any rules on the subject made by Government. But the Government Pleader here has produced to us such rules (Revenue Department, Bombay Castle, 29th September 1883, and No. 7287). Rule 3,* which prohibits the possession of any opium unless obtained as therein specified, seems to us to apply, and we direct the Sessions Judge's attention to it.

“We reverse the Sessions Judge's order of acquittal and restore the Magistrate's conviction and sentence.”

(G. R. No. 7499, dated 16th September 1885.)

7. The term “Medical practitioner” is used in Rule 37 of the Rules† under the Opium Act in its general sense, without any qualification. As so used, it means a person who practises or is engaged in the exercise of the medical profession, *i. e.* the healing of diseases. It therefore undoubtedly includes practising *vaidyas* and *hakims*, but it does not include persons who are *vaidyas* and *hakims* in name only. (L. R. No. 4, dated 4th January 1892; *vide* G. R. No. 6292, dated 3rd August 1892.)

† Printed at pp. 397—417 of the Compilation of General Rules.

XI.—MISCELLANEOUS.

1. *Official Correspondence*.—All correspondence relating to the Opium and Salt Departments which

* *Vide* Rule 4 of the Rules in G. N. No. 4472 A, dated 3rd June 1885, printed at pp. 397—417 of the Compilation of General Rules.

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affects the interests of Native States should be addressed to the Secretary to the Government of India in the Foreign Department. (G. L. For. Dept., No. 2511 P, dated 25th March 1881.)

2. *Translations of Notifications.*—The Oriental Translator to Government should translate the notifications that may be issued from time to time under the Opium Act into Marathi, Gujarati and Kanarese and forward the translations to the Superintendent, Government Central Press, to be printed. Copies of the translations should be supplied to the officers concerned in accordance with their requirements, which should be communicated direct to the Superintendent of the Press. (G. R. No. 8113, dated 13th October 1892.)

3. *Inspectors and Sub-Inspectors.*—The Inspectors and Sub-Inspectors of the Opium Department armed with revolvers should be required to go through a course of firing at the Police headquarters of their respective districts and obtain a certificate of efficiency from the Superintendent of Police. (G. R. No. 7390, dated 11th September 1883.)

4. The Opium Inspector attached to the Bombay Customs House may reasonably be expected to pay himself any expenses incurred by him when proceeding on duty from the opium head-quarters office in Bombay to the Brcalla Station which is within his charge. (G. R. No. 1690, dated 3rd April 1880.)

5. The practice of obliging the traders to provide the Opium Inspector with a conveyance and paying him fees when his services are required on recognized public holidays appears to Government most objectionable. The Inspector should have his head-quarters at Bori Bandar; and any merchant who may require his services at the R. B. and C. I. Railway station or on holidays should be obliged to pay a certain fixed fee which should be regularly brought to account. Out of the funds thus obtained, the Inspector should be paid by contingent bills for his carriage hire and for any special remuneration he may, in the opinion of the Commissioner of Customs, be entitled to for working on holidays. (G. R. No. 517, dated 30th January 1874.)

6. *Accounts.*—For purposes of opium accounts, 35½ tolas should be considered to constitute one pound avoirdupois. (G. R. No. 5255, dated 7th November 1879.)

7. *Fees.*—The fee for examining opium to be purchased by Government for supplying Government depôts should in future be Rs. 5 per chest. The brokerage should be fixed at Rs. 3½ per chest. (G. R. No. 6681, dated 15th December 1879.)

8. *Government Warehouse.*—In exercise of the powers conferred by Section 7 (9) of the Opium Act the Governor General in Council is pleased to authorize the Governor of Bombay in Council to

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establish a warehouse* for opium legally imported into, or intended to be exported from, the territories administered by him. (G. I., F. & C., No. 757, dated 2nd May 1884; *vide* G. N. No. 3862, dated 14th idem.)

9. *Form of receipt for Warehouse fees for opium stored in the Bombay Government Opium Warehouse:—*

		<i>Bombay Custom House.</i>	
No.		No.	189
Consignee.		Received from	
Name of Scale and No. of Passport.		Rupees	, being the amount of fees at 10½ annas per chest chargeable on chests of opium covered by passport No. from
No. of Chests.			for storage of the same in the Bombay Government Opium Warehouse.
Rate 10½ annas per chest.			
Amount.			
Cashier.	Assistant Collector of Customs in charge, Opium Department.	Cashier.	Assistant Collector of Customs in charge Opium Department.

(G. R. No. 5447, dated 5th August 1890.)

10. *Insurance.*—It is not considered expedient or economical to insure Government property except where the value is very large and the risk unusual. The Government of India does not therefore think it necessary to insure the Government opium warehoused in Bombay. (G. I., F. & C., No. 236-Ex., dated 17th January 1893; *vide* G. R. No. 1808, dated 11th March 1893.)

* For the Bombay Opium Warehouse Rules *vide* pp. 418—424 of the Compilation of General Rules.

PATENTS.*

1. References may be made direct by the Government of India to the Director of Land Records and Agriculture, Bombay, for opinion regarding applications for patents for agricultural implements received from private individuals in cases in which doubt exists as to the novelty of the alleged invention. (G. R., G. D., No. 2106, dated 14th June 1886.)

2. Under Section 48, sub-section (3), and Section 62, sub-section (3), of the Inventions and Designs Act, V of 1888, the Governor General in Council is pleased to direct that the fees for the time being payable under those sections shall, from the 1st April 1889, be collected in cash instead of by means of stamps. (G. I., R. & A., Notn. No. 489, dated 20th March 1889; *vide* G. N., G. D., No. 1363, dated 4th April 1889.)

3. Under the provisions of Section 11, sub-section 3, of the Inventions and Designs Act, V of 1888, His Excellency the Governor in Council is pleased to appoint the new Record Office, Bombay, as the place where copies of specifications of inventions and designs filed in the office of the Secretary to the Government of India in the Revenue and Agricultural Department can be inspected. (G. N., G. D., No. 3977, dated 25th September 1889.)

4. Inspection of copies of the specifications of patents filed in India should take place at the new Record Office. A fee of Rupee 1 should be charged for the inspection of specifications of patents filed in India. A similar fee should also be charged for the inspection of copies of specifications of patents registered in England in cases where assistance is required from the Record Office. (G. M., G. D., No. 3976, dated 25th September 1889.)

5. In exercise of the powers conferred by Section 11, sub-sections (1) and (2), and Section 49 of the Inventions and Designs Act (V of 1888), the Governor General in Council is pleased to declare that every applicant for leave to file a specification of an invention shall cause to be delivered, or sent with the specification to the Secretary, not fewer than five copies thereof, and to direct that the fifth of these copies shall be sent by the Secretary to the Director of Land Records and Agriculture, North-Western Provinces and Oudh. (G. I., R. & A., Notn. No. 292-352-4-P., dated 9th February 1892; *vide* G. N., G. D., No. 520, dated 17th *idem*.)

6. Under Section 49, sub-section (1), of the Inventions and Designs Act, 1888, and in supersession of the notification in the Revenue and Agricultural Department No. 884-P., dated 29th April 1890, the Governor General in Council is pleased to direct that in the first paragraph of the form of application in the second schedule to the said Act, the following amendment shall be made with effect on and

* This subject was dealt with by the General Department up to the end of February 1893.

from the 1st July 1892, namely, after the words 'in respect of the invention' add:—

- '*(Here state whether an application has or has not at any time been made in the United Kingdom by, or on behalf of, the applicant for a patent in respect of the invention, and if any such application has been made, describe the progress of that application, adding a reference to every place in the Official Patent Journal where mention of the application, or of any proceeding thereon, is made.)'*

(G. I., R. & A., Notn. No. 526-P., dated 8th March 1892; vide G. N., G. D., No. 926, dated 23rd idem.)

PETROLEUM.**I.—EXTENSION OF CERTAIN PROVISIONS OF THE
PETROLEUM ACT, XII OF 1886, TO BOMBAY,
KARA'CHI AND ADEN.**

1. In exercise of the power conferred by sub-section (3) of Section 1 of the Petroleum Act (XII of 1886) the Governor in Council is pleased to extend the provisions of the said Act, other than those relating to dangerous petroleum and the importation of petroleum, to the cities of Bombay and Karáchi, and to Aden, with effect on and from the 1st of September 1890. (G. N. No. 5796, dated 18th August 1890.)

In exercise of the powers conferred by Sub-section (3) of Section 1 of the Petroleum Act XII of 1886, His Excellency the Governor in Council is pleased to direct that all the provisions of the said Act, other than those relating to dangerous petroleum and to the importation of petroleum, shall on and after the 1st day of September 1896, extend to the areas undermentioned, that is to say,

- (1) the Municipal Districts of—
 - (a) the Suburban Municipality of Poona,
 - (b) the Broach City Municipality,
 - (c) the Ahmedabad City Municipality,
 - (d) the Surat City Municipality ;
- (2) the Táluka of Jalgaon* in the Khándesh District, and
- (3) all land between the City of Bombay and any of the aforesaid areas occupied by or acquired for—
 - (a) the G. I. P. Railway, or
 - (b) the B. B. & C. I. Railway for the purposes of such Railway, including not only all land within the fences or other boundary marks indicating the limits of the land appurtenant to such Railway, and all lines of rails, sidings and branches worked over for the purposes or in connection with the same, but also all stations, offices, warehouses, workshops, manufactories, compounds, yards, roads, open spaces and other lands, whether occupied by buildings or not, used or that may be used for the purposes of, or in connection with, such Railway.

(G. N. No. 6123, dated 5th August 1896.)

II.—IMPORTATION, POSSESSION AND TRANSPORT.

1. In exercise of the powers conferred by Section 8 of the Petroleum Act, XII of 1886† the Governor of Bombay in Council is pleased, with the previous sanction of the Governor General in Council, to make the following rules to regulate the importation of petroleum by sea into the Presidency of Bombay:—

* G. N. No. 6314, dated 25th August 1897.

† This Act was brought into force from 2nd August 1890; vide G. I., H. D., Notn. No. 1078, dated 2nd August 1890, republished under G. N. No. 5480, dated 6th idem.

PRELIMINARY.

- Short title. 1. These rules may be cited as the Bombay Petroleum Import Rules.
- Interpretation. 2. In these rules,—
- ‘The Act.’ (1) “the Act” means the Petroleum Act, 1886:
- (2) “petroleum declared dangerous” means petroleum which the master of a ship has declared under rule 5 to be dangerous petroleum:
- “Petroleum declared dangerous.”
- (3) “certificated petroleum” means petroleum in respect of which a certificate of such description as the Governor in Council, from time to time, by Resolution, permits to be recognized for the purposes of these rules, has been obtained, at the port of shipment, declaring that the said petroleum is not dangerous petroleum:
- “Certificated petroleum.”
- (4) “uncertificated petroleum” means petroleum which is neither petroleum declared dangerous nor certificated petroleum:
- “Uncertificated petroleum.”
- (5) “petroleum reported dangerous” and “petroleum reported not dangerous” mean petroleum which the testing officer has certified in a report under rule 23 to be, respectively, dangerous or not dangerous:
- “Petroleum reported dangerous” and “Petroleum reported not dangerous.”
- (6) “the Chief Customs-officer” means the chief executive officer of sea customs for any port to which these rules apply:
- “Chief Customs-officer.”
- (7) “the Testing-officer” means the Testing-officer appointed by the Governor in Council under Section 9 of the Act for the port of Bombay, Karachi or Aden, as the case may be: and
- (8) words and expressions defined in the Act have the same meanings as are respectively assigned to them therein.
- Words and expressions defined in the Petroleum Act.

PORTS AT WHICH PETROLEUM MAY BE IMPORTED.

3. Petroleum from any port in Burma or from any port beyond the limits of British India may not be imported except at the ports of Bombay, Karachi and Aden.
- Importation from Burma and foreign ports.
4. Petroleum from any port in British India, other than a port in Burma, may be imported at any port in the Bombay Presidency:
- Importation from British Indian ports.

Provided as follows, namely:—

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(a) if such petroleum be dangerous petroleum, it must,—

(i) if it exceeds forty gallons in quantity, be covered by an import license under Section 5 of the Act; or,

(ii) if it exceeds three gallons but does not exceed forty gallons in quantity, be covered by a possession or transport license under section 6 of the Act; or,

(iii) if it does not exceed three gallons in quantity, be contained in vessels of the nature proscribed in the proviso to Section 6 of the Act;

(b) if such petroleum be not dangerous, it must have been certified to be not dangerous by a Testing-officer appointed by a Local Government under Section 9 of the Act, and the words "not dangerous" must be noted on the shipping bill and on the export manifest.

**PROCEDURE ON IMPORTATION AT BOMBAY,
KARACHI AND ADEN.***

(a) *Ascertainment of the Quantity and Description of Petroleum on Boardship.*

5. Except as is hereinafter otherwise provided, the master of every ship bound for Bombay, Karachi or Aden, carrying petroleum, shall deliver to the pilot before reaching the points hereinbelow specified, namely:—

Declaration to be made by master of ship carrying petroleum or by the ship's agent.

at Bombay—the Sunk Rock Light-house;

at Karachi—the No. 2 Deep-water Point moorings;

at Aden—such point as shall be fixed on this behalf by the Resident;

a written declaration under his signature stating—

(a) what quantity of petroleum the ship is carrying;

(b) whether any, and, if so, what part of it is dangerous petroleum;

(c) whether any, and, if so, what part of it is certificated petroleum; and

(d) whether any, and, if so, what part of it is oil intended exclusively for lubricating or jute-batching purposes and having a flashing-point above 150° of Fahrenheit's thermometer:

Provided that, if, in anticipation of a ship's arrival, the agent of such ship delivers to the Port-officer a written declaration as aforesaid under his signature, no such declaration shall be necessary by the master of the ship.

If the master or agent declares that any petroleum is certificated petroleum, he shall deliver to the pilot

* The following instructions, issued by the Political Resident at Aden for the purpose of carrying out the Rules under Section 7 of the Petroleum Act, VIII of 1881 (repealed by Act n 1955—369 REV.

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or Port-officer, as the case may be, along with his declaration, the certificate relating to such petroleum.

Every such certificate and declaration delivered to a pilot shall by him be made over without delay to the Port-officer, and all certificates and declarations received by the Port-officer shall, with all convenient despatch, be forwarded by him to the Chief Customs-officer.

(b) *Discharge, Landing, Transhipment and Storage of Petroleum.*

6. A ship may proceed to the usual anchorage in the port and there discharge the petroleum—

When a ship carrying petroleum may anchor at ordinary anchorages.

- (a) if it is petroleum which has been certified not to be dangerous under Section 9 of the Act, and has come from a port in British India as a part of a general cargo; and the quantity does not exceed five thousand gallons;
- (b) or, if it is certificated petroleum not exceeding five thousand gallons in quantity, and the master produces the certificate to the pilot;

XII of 1886), were approved by Government Resolution, General Department, No. 3800, dated 17th October 1884:—

1. The master of every ship bound for Aden, conveying petroleum, shall deliver to the pilot the declaration in duplicate required by Rule 2 before entering the limits of the Inner Harbour, or before anchoring in the Outer Harbour. The pilot shall send one copy of the declaration to the Superintendent of A'bkári, and the other to the Conservator of the Port.

2. A ship having on board

- (a) petroleum declared dangerous; or
- (b) certificated petroleum exceeding five hundred gallons in quantity; or
- (c) uncertificated petroleum;

shall remain in the Outer Harbour leeward of all other shipping, at such anchorage as the Conservator of the Port shall appoint.

3. The Superintendent of A'bkári has been authorized to proceed on board and obtain samples of petroleum and to carry out the duties assigned in Rule 2.

4. Petroleum discharged under Rule 3, and petroleum reported not dangerous passed under Rule 10, may be debarked on any Government or private pier or landing place, used for goods.

5. Dangerous petroleum shall be landed at the Pier at Shaikh Othman and deposited in the Government warehouse there.

6. In order that vessels importing certificated petroleum, exceeding 500 gallons in quantity, and uncertificated petroleum may not be unnecessarily detained until the petroleum on board thereof has been examined, such petroleum may either be landed at the pier at Shaikh Othman and deposited in the Government warehouse there, until it has been tested by the Chemical Examiner; or such petroleum may be deposited in lighters or boats which shall remain at anchor during the North-East Monsoon 1,000 yards north-east from the Light Vessel, and in the South-West Monsoon 600 yards due north from the Outer P & O. Moorings, until duly passed.

Note.—Owners, importers or consignees may store petroleum in the warehouse at the Shaikh Othman Pier, if they are not in possession of premises which fulfil the conditions prescribed by Rule 2 under Section 9 of the Act, and warehouse rent will be levied as under:—

For each case—anna 1 per quarter or part of quarter;

For each barrel—annas 4 per quarter or part of quarter.

Licenses for the import, possession or transport of petroleum will be issued by the Court of the Resident.

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(c) or, if it is petroleum which is ordinarily used for lubricating or jute-batching purposes and which has a flashing-point above 150° of Fahrenheit's thermometer:

Provided that the officer whose duty it is, under Rule 21, to select samples of petroleum on board may at any time take a sample of any such petroleum or oil for the purpose of having it tested.

7. Every other ship having petroleum on board shall be anchored at such anchorage as the Conservator of the Port shall appoint in this behalf, and shall not leave such anchorage until such petroleum has been discharged.

When a ship carrying petroleum must anchor at a special anchorage.

8. Petroleum shall be landed only at such landing-places as shall be prescribed by the Chief Customs-officer, with the sanction of Government, for Bombay, of the Commissioner in Sind, for Karáchi, and of the Resident, for Aden.

Petroleum only to be landed at appointed landing-places.

9. Except as is otherwise provided in Rules 10 and 11, no petroleum shall be landed from any ship referred to in Rule 7 until the Testing-officer's report in respect thereof has been received in the office of the Chief Customs-officer.

Petroleum referred to in Rule 7 not to be landed until it has been tested.

10. If the quantity of petroleum declared dangerous on board a ship does not exceed forty gallons and there is no other petroleum on board, or the aggregate quantity of petroleum on board, including petroleum declared dangerous, does not exceed forty gallons, the said petroleum may be forthwith landed.

Exception in respect of petroleum declared dangerous which is not in excess of forty gallons or is covered by an import license.

If the quantity of petroleum declared dangerous exceeds forty gallons, or if it does not exceed forty gallons, but the aggregate quantity of petroleum on board exceeds that amount, the whole or any portion thereof may be at once landed, if the whole amount of the petroleum on board is covered by an import license under Section 5 of the Act.

11. The Chief Customs-officer may, in anticipation of the Testing-officer's report, allow the consignee of any certificated petroleum exceeding five thousand gallons in quantity to discharge the same into boats or to land it.

Except in respect of certificated petroleum exceeding five thousand gallons.

Such permission shall be subject to the condition that the boats into which the petroleum is discharged shall remain at such place as may be directed by the Chief Customs-officer, or that the petroleum shall be landed at a landing place duly appointed for this purpose under Rule 8, and be stored in a public warehouse built according to any rules in force

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for the storage of petroleum and set apart for the storage of certificated petroleum which has not been reported not dangerous, or within such limits as may be approved for the purpose by the Chief Customs-officer.

Before removal to such warehouse the petroleum must be entered inwards and cleared under Sections 86 and 87 of the Sea Customs Act.

12. As soon as the Testing-officer's report has been received in the office of the Chief Customs-officer, the petroleum to which the same relates shall be deemed to be dangerous or not dangerous in accordance with the said report; and any petroleum reported dangerous which has not been declared dangerous shall at once be subject to the provisions relating to dangerous petroleum.

Testing-officer's report to be final as to the nature of the petroleum tested.

13. Petroleum reported not dangerous may be landed forthwith.

Landing of petroleum reported not dangerous.

14. If the petroleum reported dangerous, together with the petroleum declared dangerous, if any, exceeds forty gallons in quantity and the same has not been already landed under the second paragraph of Rule 10, no part of it shall be landed without production of an import license under Section 5 of the Act covering the whole amount thereof.

Dangerous petroleum in excess of forty gallons may not be landed except under an import license.

15. Applications for import licenses under the said section shall be submitted in Bombay to the Commissioner of Police, in Aden to the Resident, and in Karachi to the Collector of Customs, Karachi, who will, after inquiry, forward the same with their opinion to Government in the Revenue Department.

Import licenses how obtainable.

If the application is granted, a license, signed by a Secretary to Government will be forwarded to the applicant through the officer to whom his application was submitted.

16. Except* in the case specified in Rule No. 18 (II) below, petroleum shall not be discharged, landed or transhipped at any time between sunset and sunrise.

Petroleum to be landed, &c., only in the day-time.

Smoking and fire, &c., on cargo-boats and, if the light be naked, in licensed premises, prohibited.

17. Smoking and the use of any fire or light are prohibited—

- (a) on any boat which is being used for landing or transshipping petroleum, and
- (b) in any premises or enclosure licensed for the storage of petroleum in bulk, unless, in the case of a light, such light be not naked

* G. N. No. 10230, dated 14th December 1896.

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but protected. (G. N. No. 4301, dated 8th June 1897.)

18. Petroleum shall not be stacked on or near any landing-places, but shall be removed with the least possible delay to its proper destination.
- Petroleum not to be stacked on or near landing-places.

(For part II of Rule No. 18 *vide* G. N. No. 5018, dated 11th July 1893.)

19. Except as is otherwise provided in Rules 16 and 17, the transshipment of certificated petroleum or of petroleum which has been certified not to be dangerous under Section 9 of the Act, for any other port, whether within or beyond the limits of British India, shall not be subject to any restriction other than what is imposed by any rules under the Sea Customs Act.
- Transshipment of petroleum.

20. Dangerous petroleum and petroleum exceeding five hundred gallons in quantity shall not be stored on any premises which are not licensed under Section 11 of the Act.
- Storage of petroleum.

(c) Selection and Delivery of Samples.

21. When a ship is brought to anchor at the anchorage appointed under Rule 7, the Superintendent of the Preventive Service or any Inspector of the Preventive Service at Bombay, the Head Preventive Officer at Karachi, and the Inspector of A'bkári under the orders of the Collector of A'bkári at Aden, shall proceed on board and select, as soon as possible, samples of every variety of petroleum on board other than petroleum declared dangerous.
- Selection of samples.

The master shall deliver to the said officer without charge such samples as he shall select.

Delivery of samples by master.

The said officer shall forthwith seal each sample so obtained and affix to each the name of the ship, the name of the consignee of the petroleum, and such other particulars or distinguishing marks as he thinks fit, and forward them to the Testing-officer for report.

Forwarding of samples to the Testing-officer.

22. Samples shall be selected in the proportion of one sample for every fifteen thousand cases or fraction of fifteen thousand cases of certificated petroleum, and one sample to every ten thousand cases or fraction of ten thousand cases of uncertificated petroleum of each brand or quality comprised in the cargo.
- Number of samples to be selected.

(d) Testing.

23. The Testing-officer on completing his tests shall, as soon as practicable, and ordinarily within twenty-four hours after the receipt of
- Report by Testing-officer.

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the samples, sign a report certifying to the Chief Customs-officer that the samples are or are not dangerous petroleum, as the case may be.

24. If more than one sample of any one brand or quality forming the cargo or a portion of the cargo of a ship is sent to the Testing-officer for report, that officer shall test each sample separately and strike an average of the results of testing the several samples. If the average flashing-point is not lower than 73° of Fahrenheit's thermometer and no one test gives a flashing-point below 70° of that thermometer, the whole of the petroleum represented by the samples shall be reported as not dangerous.

25. When the results of the testing of samples raise a doubt as to the uniformity of the quality of the petroleum in any consignment stated to be of one uniform quality, the Testing-officer, if he thinks further tests necessary to satisfy him that none of the petroleum is dangerous, shall inform the Chief Customs-officer.

The Chief Customs-officer shall cause the petroleum in question to be landed and stacked in lots of one thousand cases each or to be discharged into boats each containing five hundred cases; and the officer named in Rule 21 shall select and deliver to the Testing-officer one sample from each lot. The result of the testing of each of these samples shall determine the quality of the lot which such sample represents.

If the petroleum has been already landed and stored under Rule 11, it shall be divided into lots, and samples of each lot shall be selected as aforesaid by the Superintendent of Police.

(e) *Fees for Sampling and Testing.*

26. The following fees shall be charged for sampling and testing petroleum:—

- Fees.
- (1) under Rules 21 and 24—
for each sample selected, one rupee;
for each sample tested, one rupee;
 - (2) under Rule 25—
for each sample selected, five rupees;
for each sample tested, five rupees.

GENERAL EXCEPTION.

27. Nothing in these rules applies to petroleum other than dangerous petroleum comprised in a ship's stores and manifested as such, if the quantity thereof is not, in the opinion of the Chief Customs-officer, unreasonably large.

If, in the opinion of the said officer, the quantity of petroleum is unreasonably large, the provisions

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of these rules shall be applicable to the excess over and above the quantity which he deems reasonable

(G. Nos. Nos. 2743, dated 22nd April 1890, and 3772, dated 31st May 1890.)

2. In exercise of the powers conferred by Section 11 of the Petroleum Act, XII of 1886, the Governor of Bombay in Council is pleased, with the previous sanction of the Governor General in Council, to make the following rules to regulate the granting of licenses to possess or transport petroleum in the Presidency of Bombay:—

Preliminary.

Interpretation.

1. In these rules,—

“The Act.”

(1) “the Act” means the Petroleum Act, 1886.

(2) “City of Bombay” includes every place for

“City of Bombay.” the time being within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, and

Words and expressions defined in the Petroleum Act.

(3) Words and expressions defined in the Act have the same meaning as in the Act.

2. These rules, so far as they apply to dangerous petroleum, extend to the whole of the Presidency of

Local extent.

Bombay, and, so far as they apply to other petroleum, only to those local areas to which the rest of the Act has, for the time being, been extended by a notification of the Governor in Council under Section 1, sub-section (3) of the Act.

Possession of Petroleum.

3. Licenses for keeping petroleum exceeding five hundred gallons in quantity or dangerous petroleum shall ordinarily be granted only when the premises intended to be used for the storage of such petroleum are separated by a clear open space of not less than twenty feet on every side from any other building, and when they also fulfil the following conditions, namely:—

Licenses for possession not to be granted unless the premises on which the petroleum is to be stored fulfil certain conditions.

petroleum are separated by a

clear open space of not less than twenty feet on every side from any other building, and when they also fulfil the following conditions, namely:—

- (a) in the City of Bombay, when the building in which the petroleum is to be stored is constructed of masonry with terraced or iron roof, and with tiled or paved or earthen floors, and when the doorways and openings of the building are built up to a height of not less than two feet above the level of the road or street, or when the floor is sunk at least two feet below the level of the road or street so that petroleum cannot flow out of the building in case of fire;
- (b) outside the City of Bombay, either the conditions specified in clause (a) or the following conditions, namely, when the building in which the petroleum is to be stored is built of brick or earth and no inflammable material has been

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used in the construction of any portion thereof except the doors; and when the building is surrounded by a wall or earthen embankment not less than four feet high with a trench between such wall or embankment and the building, close to and completely surrounding the building, of sufficient capacity to hold all the petroleum stored and to prevent its escape beyond the limits of the trench in case of fire:

Provided that Government or the officer who grants the license (as the case may be) may for special reasons (which, when the license is granted by an officer, shall be recorded by him in writing before he grants the license) dispense with any or all of the said conditions.

4. The licensing-officer, or any police-officer of or above the rank of head constable, may enter any premises in respect of which a license for the possession of petroleum has been granted for the purpose of inspecting the same, at any time between sunrise and sunset.

5. The licensing-officer, or any police-officer as aforesaid, may require any licensee to show him any of the vessels in which any of the petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same and to deliver to him a sample from any vessel which he indicates for this purpose on payment of the value of such sample.

The procedure prescribed in Section 13 of the Act shall be followed in respect of the testing of any sample so obtained, the licensee being deemed for this purpose a dealer in petroleum.

Transport of Petroleum.

6. Licenses for the transport of petroleum shall only be granted if the petroleum to be transported is packed in air-tight tins or other vessels not easily broken or is contained in bottles securely stopped and carefully packed so as to avoid risk of breakage.

If the petroleum is to be conveyed in a cart, it shall only be so transported between sunrise and sunset.

7. It shall be the duty of all police-officers to see that petroleum which is being transported under a license is conveyed only in the manner prescribed in the last preceding rule and by such route as is specified in the license; any such officer may stop and inspect any petroleum in transit and, if necessary, require the person in charge of the same to comply with

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these rules or with any of the conditions of the transport license.

Grant of Licenses.

8. Applications under Section 5 of the Act for a license to keep or transport dangerous petroleum exceeding forty gallons in quantity shall be submitted in the City of Bombay to the Commissioner of Police, in Aden to the Resident, and elsewhere to the Commissioner of the Division, who will, after inquiry, forward the same with their opinion to Government in the Revenue Department.

If the application is granted, the license, signed by a Secretary to Government, will be forwarded to the applicant through the officer to whom his application was submitted.

9. Application for licenses to possess or transport petroleum not falling under Section 5 of the Act should be made to the officers who are herein below respectively authorized to grant the said licenses, namely:—

License for—	If applied for in—	May be granted by—
(1) Keeping dangerous petroleum equal to or less than forty gallons in quantity by one person or on the same premises.	(1) The City of Bombay. (2) Aden. (3) Elsewhere.	(1) The Municipal Commissioner. (2) The Resident. (3) The District Magistrate or such other officer as Government by notification in the <i>Bombay Government Gazette</i> from time to time specially authorizes in this behalf.
(2) Keeping petroleum exceeding five hundred gallons in quantity by one person or on the same premises.		
(3) Transporting dangerous petroleum equal to or less than forty gallons in quantity.	(1) The City of Bombay. (2) Aden. (3) Elsewhere.	(1) The Commissioner or Deputy Commissioner of Police. (2) The Resident. (3) The District Magistrate or such other officer as Government specially authorizes in this behalf in the manner aforesaid.
(4) Transporting petroleum exceeding five hundred gallons in quantity.		

10. (1) Applications for licenses for keeping or transporting petroleum shall be in writing.

(2) Applications for licenses for keeping petroleum shall specify—

- (a) the description and quantity of petroleum which the applicant desires to keep ;
- (b) the name and position of the premises in which it is proposed to keep the said petroleum, and whether the said premises fulfil the conditions required by Rule 3 ;
- (c) the purpose for which the applicant desires to keep the said petroleum ;

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(d) the amount of petroleum, if any already licensed, to be kept in the same premises.

(3) Applications for licenses for transporting petroleum shall specify—

(e) the description and quantity of petroleum to be transported;

(f) the places from and to which it is desired to transport the said petroleum;

(g) the route and means by which it is proposed to convey the same; and

(h) the kind of vessels in which the petroleum to be transported is contained.

(4) In the case of applications for licenses for the possession or transport of dangerous petroleum under Section 5 of the Act, the application shall also contain the particulars required by sub-section (2) of that section.

11. In dealing with any application under Section 6 or Section 10 of the Act the licensing-officer may, in his discretion, grant a license for the possession or transport of such quantity of petroleum as he thinks fit.

12. Every license for the possession of petroleum shall be in force for one year from the date of the grant thereof; and every license for the transport of petroleum shall be in force for such period not exceeding three months from the date of the grant thereof as shall be fixed by Government or by the officer who grants the same, unless such license is revoked by competent authority before the expiry of such period.

13. Every application for the renewal of a license for the possession of petroleum shall be made in the same manner as an application for an original license. Every such application shall be made not less than fifteen days before the day on which the original license expires.

Fees for Licenses.

14. The following fees shall be charged for licenses to keep or transport petroleum, whether original or renewed, namely:—

Amounts of fees to be charged.	Applications for renewal of licenses how to be made.	Quantity for which license may be granted.	Period for which licenses are to be in force.
(1) License for keeping dangerous petroleum exceeding forty gallons in quantity; for every forty gallons or fraction of forty gallons...	for the possession of petroleum shall be made in the same manner as an application for an original license. Every such application shall be made not less than fifteen days before the day on which the original license expires.	the licensing-officer may, in his discretion, grant a license for the possession or transport of such quantity of petroleum as he thinks fit.	shall be in force for one year from the date of the grant thereof; and every license for the transport of petroleum shall be in force for such period not exceeding three months from the date of the grant thereof as shall be fixed by Government or by the officer who grants the same, unless such license is revoked by competent authority before the expiry of such period.
(2) License for the transport of do.; for every forty gallons or fraction of forty gallons ...			
(3) License for the possession of dangerous petroleum not exceeding forty gallons in quantity ...			
(4) License for the transport of do. do. ...			

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- (5) License for keeping petroleum (other than dangerous petroleum)—
- (a) when the quantity to be stored exceeds five hundred but does not exceed one thousand gallons 12
- (b) when the quantity to be stored exceeds one thousand gallons but does not exceed five thousand gallons ... Rs. 2 extra for each one thousand gallons or part of one thousand gallons in excess of one thousand gallons ;
- (c) when the quantity to be stored exceeds five thousand gallons ... Rs. 4 for every (additional) one thousand gallons or part of one thousand gallons in excess of five thousand gallons.
- (6) License for the transport of petroleum (other than dangerous petroleum)—
- when the quantity exceeds five hundred but does not exceed five thousand gallons. 1
- for every additional five thousand gallons or part of five thousand gallons 1

Forms and Conditions of Licenses.

15. Licenses granted under these rules shall be in the forms and shall have inserted in them the conditions respectively prescribed in the schedule hereto annexed.
- Forms and conditions of licenses to be as per schedule.

Revocation of Licenses.

16. Every license granted under these rules may at any time be revoked by Government or by the officer who granted it, or his successor in office, on its being established to the satisfaction of Government or of such officer that the licensee or any person in his employ has infringed any of its conditions or any provision of these rules or of the Act.
- When licenses may be revoked by Government or by the officer who granted them.

A.

Form of License to keep Dangerous Petroleum, to be granted under Section 5 or Section 6 of the Act.

No.

Fee Rs.

License is hereby granted to the premises described below dangerous petroleum, subject to the conditions prescribed on the reverse.

to keep in gallons of the conditions

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This license shall continue in force for one year from the date hereof ; and may be renewed on application being made for this purpose not less than fifteen days previous to the expiry of the said year.

Description of premises above referred to :—

(Signed)

Secretary to the Government of Bombay.

When the amount of petroleum does not exceed forty gallons, { or Municipal Commissioner, Bombay.
or Resident, Aden.
or District Magistrate.

Reverse.

This license is granted subject to the following conditions :—

1. No goods of a combustible nature shall be stored in the premises in respect of which this license is granted.

2. Every case (*or tin, &c.*) in which the petroleum is contained must bear a label as required by Section 7 of the Act.

3. No vessel containing petroleum shall be opened, and no oil shall be drawn from any vessel, within the building in which the petroleum is stored.

4. No smoking, light or fire in any form shall be permitted at any time within the said building.

5. If Government or the officer who grants this license requires the holder of this license, by notice in writing, to execute any repairs, which may, in the opinion of Government or of such officer, be necessary for the safety of the premises in respect of which this license is granted, the holder of this license shall execute the same within such period, not being less than one week from the date of the receipt of the notice, as may be fixed by the notice.

6. The license-holder shall not deliver any quantity of the petroleum covered by this license exceeding three gallons to any person who does not hold a license to possess the same under Section 5 or 6 of the Act. If he delivers any quantity thereof not exceeding three gallons to any person, he shall observe the provisions of the proviso to Section 6 of the Act as to the vessels in which such petroleum must be contained.

B.

Form of License for transport of Dangerous Petroleum, to be granted under Section 5 or Section 6 of the Act.

No.

Fee Rs.

License is hereby given to _____ of _____ under Section _____ of the Petroleum Act, 1886, to transport _____ cases

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(*or tins, &c., as the case may be*) containing in all gallons of dangerous petroleum from to , subject to the conditions prescribed on the reverse and by the following route, namely:—

The amount of petroleum in each case (*or tin, &c.*) is stated below:—

This license shall continue in force only till the .. day of 189 .

(Signed)

Secretary to Government.

When the amount of petroleum does not exceed forty gallons. { *or* Commissioner *or* Deputy Commissioner of Police, Bombay.
or Resident, Aden.
or District Magistrate.

Reverse.

This license is granted subject to the following conditions:—

1. The petroleum shall be carried in ^{covered boats} _{cars}.
2. Every case (*or tin, &c.*) in which the petroleum is contained must bear a label as required by Section 7 of the Act.
3. No smoking, fire or light of any kind shall be permitted on the ^{boats} _{cars} in which the petroleum is carried.
4. The license-holder shall not deliver any quantity of the petroleum covered by this license exceeding three gallons to any person who has not a license to possess the same under Section 5 or 6 of the Act. If he delivers any quantity thereof not exceeding three gallons to any person, he shall observe the provisions of the proviso to Section 6 of the Act as to the vessels in which such petroleum must be contained.
5. Should the Commissioner of Police or any District Magistrate* through whose jurisdiction the petroleum covered by this license has to pass consider it necessary to send a guard with the same, the license-holder shall, before conveying the said petroleum within the said jurisdiction, pay the cost of such guard at such rate as shall be fixed by the Commissioner or Magistrate.*

C.

Form of License to keep Petroleum other than Dangerous Petroleum, to be granted under Section 10 of the Act.

No.

Fee Rs.

License is hereby granted to to keep in the premises described below gallons of petroleum which is not dangerous petroleum subject to the conditions prescribed on the reverse.

* In Aden substitute the "Resident."

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This license shall continue in force only till the
day of 189 .

Description of the premises above referred to:—

(Signed)

Municipal Commissioner, Bombay.
or Resident, Aden.
or District Magistrate.

The

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Reverse.

This license is granted subject to the following conditions:—

1. No goods of a combustible nature shall be stored in the premises in respect of which this license is granted.
2. No vessel containing petroleum shall be opened and no oil shall be drawn from any vessel within the building in which the petroleum is stored.
3. No smoking, light or fire in any form shall be permitted at any time within such building.
4. If the licensing officer requires the holder of this license, by notice in writing, to execute any repairs which may, in the opinion of such officer, be necessary for the safety of the premises in respect of which this license is granted, the holder of this license shall execute the same within such period, not being less than one week from the date of the receipt of the notice, as may be fixed by the notice.

D.

Form of License to transport Petroleum other than Dangerous Petroleum to be granted under Section 10 of the Act.

No.

Fee Rs.....

License is hereby granted to
to transport cases (or tins, &c.) of
petroleum which is not dangerous petroleum from
to

subject to the conditions prescribed on the reverse
and by the following route, namely:—

This license shall continue in force only till
the day of 189 .

Dated of 189 .

(Signed)

Commissioner or Deputy Com-
missioner of Police, Bombay;
or Resident, Aden;
or District Magistrate.

This license is granted subject to the following conditions:—

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Reverse.

1. The petroleum shall be carried in ^{covered boats} ~~cars~~.
2. No smoking, fire or light of any description shall be allowed in the ^{boats} ~~cars~~ in which the petroleum is being carried.

(G. N. No. 2743-A, dated 22nd April 1890.)

3. The Governor of Bombay in Council is pleased with the previous sanction of the Governor General in Council, to make the following rules under Sections 8 and 11 of the Petroleum Act, 1886, in modification and continuation of the rules made under the said sections and published in the notifications noted in the margin:—

Nos. 2743 and 2743-A of 22nd April 1890, at pages 341-348 of the *Bombay Government Gazette* for 1890, Part I.

with the previous sanction of the Governor General in Council, to make the following rules under Sections 8 and 11 of the Petroleum Act, 1886, in modification and continuation of

the rules made under the said sections and published in the notifications noted in the margin:—

Rules under Section 8.

1. To clause (5) of No. 2 of the rules made under Section 8 of the said Act and published by Notification No. 2743 of 22nd April 1890, there shall be added the following, *viz.*:—

“and ‘petroleum in bulk,’ means petroleum in any vessel or receptacle having the capacity of 300 gallons or upwards.”

2. To No. 18 of the said rules there shall be added the following, *viz.*:—

“(II). When petroleum is imported in bulk, its removal from the ship shall be effected by means of a hose and a wrought-iron pipe and it shall be pumped into storage tanks. The discharge shall be continuous day and night until completed, weather and appliances permitting. When working at night the electric light only shall be used, and when the ship has finished discharging, the pipe to the storage tanks shall immediately be emptied by means of a supplementary pump on shore. If for any cause the discharge of petroleum is at any time suspended, arrangements must be made by means of a valve for effectually preventing any of the oil left in the pipe from escaping.”

(G. N. No. 10230, dated 14th December 1896.)

3. For No. 22 of the said rules there shall be substituted the following, *viz.*:—

“22. The number of samples to be selected of each brand or quality contained in the cargo shall be as follows:

(1).—*Certificated Petroleum.*

(a) in cases. One sample for every 15,000 cases, or fraction of 15,000 cases.

One sample for every 120,000 gallons or part of 120,000 gallons, whether (b) (i) in bulk or in tanks, or contained in a single com-

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(ii) in hogsheads, casks or drums, and declared to be of uniform quality. compartment or tank, or in a number of compartments, tanks, hogsheads, casks or drums forming a single consignment of the same brand or quality.

(2).—*Uncertificated Petroleum.*

(a) in cases. One sample for every 10,000, or fraction of 10,000 cases.

One sample for every 80,000 gallons or part of 80,000 gallons, whether contained in a single compartment or tank, or in number of compartments, tanks, hogsheads, casks or drums forming a single consignment of the same brand or quality.

(b) (i) in bulk or in tanks, or
(ii) in hogsheads, casks or drums and declared to be of uniform quality.

4. Before paragraph 2 of No. 25 of the said rules there shall be inserted the following, *viz.* :—

“When the consignment is imported in cases.”

And in the said paragraph after the word “shall” the word “thereupon” shall be omitted.

There shall be added to the said paragraph the following, *viz.* :—

“When the consignment is imported in bulk, should the Testing-officer think a further test necessary, the Chief Customs-officer, after the contents of the tank from which the original sample was taken have been duly stirred, shall forward a second sample, and, until receipt of the Testing-officer’s further report, shall prevent the landing of any portion of the contents of the tank in question. Should the report of the second sample prove unsatisfactory, the Chief Customs-officer shall treat as dangerous the whole contents of the tank in question.”

Rules under Section 11.

1. To No. 1 of the rules made under Section 11 of the said Act and published by Notification No. 2743-A of 22nd April 1890, there shall be added the following, *viz.* :—

“(4) Petroleum in bulk means petroleum in any vessel or receptacle having the capacity of 300 gallons or upwards.”

2. In Rule 3 of the said rules made under the said Section 11, after clause (b) and before the proviso, there shall be added the following, *viz.* :—

(A) Notwithstanding anything in the foregoing rules the Local Government may, in its discretion, and subject to such conditions as it may prescribe, grant a license for the possession of any stated quantity of petroleum in a place specially prepared for the storage of petroleum in bulk in accordance with plans and specifications approved by the Local Government. The capacity in gal-

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lons shall be conspicuously marked on every storage-tank or other receptacle in such place.

(B). Any tank or receptacle for the storage of petroleum in bulk that may be erected, with the written consent of the Trustees and in accordance with plans and specifications approved by the Local Government, on the land vesting in or held by the Trustees of the Port of Bombay or of the Port* of Karachi shall be deemed to be a place in respect of which a license for the possession of petroleum has been granted under these rules.

(C). Wharves at which petroleum in bulk is to be landed must be notified in the *Government Gazette* under the Sea Customs Act as landing places for non-dangerous petroleum.

3. For No. 6 of the said rules made under the said Section 11 there shall be substituted the following, viz. :--

Transport in bulk of dangerous petroleum prohibited.

6. (1) The transport of dangerous petroleum in bulk is absolutely prohibited.

Special license necessary for transport of dangerous petroleum.

(2) No dangerous petroleum shall be transported without a special license.

(3) For the transport of petroleum other than dangerous in quantities exceeding 500 gallons, licenses, either general or special, may be granted.

Licenses general and special for transport in bulk of non-dangerous petroleum.

(3) For the transport of petroleum other than dangerous in quantities exceeding 500 gallons, licenses, either general or special, may be granted.

(4) Licenses for the transport of petroleum otherwise than in bulk shall be granted only if the petroleum to be transported is

Licenses for transport otherwise than in bulk.

packed in air-tight tins or other vessels not easily broken, or is contained in bottles securely stopped and carefully packed so as to avoid risk of breakage.

(5) Licenses may be granted for the transport in bulk of petroleum, other than dangerous petroleum,

Licenses for transport in bulk.

(a) by rail, if the petroleum is contained in tank-wagons or portable tanks approved by the railway administration over whose line it is intended to transport it,

(b) by steamer or barge if the vessel is certified to be fit for the service by an officer appointed by the Local Government in this behalf,

(c) by carts, if the carts are certified to be fit for such transport by an officer appointed by the Local Government for this purpose,

on such arrangements as may be approved by Government being made for freeing from gas, tanks, rail-

Arrangements for freeing gas.

freeing from gas, tanks, rail-

* Vide Government Notification No. 1028, dated 8th February 1899
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way-wagons, steamers, barges and carts in which petroleum has been stored or carried in bulk.

(6) (a) General licenses for a period of twelve months may be issued for the transport of petroleum, other than dangerous, by rail, by road or by water. Such licenses shall authorize the holders to transport any petroleum *bonâ fide* their own property without restriction as to destination or quantity. (G. N. No. 5710, dated 5th September 1898.)

(b) The holder of a general license with each consignment of petroleum conveyed under cover thereof shall issue a pass in Form G appended to these rules, which shall specify the places from and to which the petroleum is to be conveyed and the quantity of petroleum covered by the pass. Each pass shall be numbered and the number of the general license shall be legibly marked on a conspicuous part of the last case on the cart, or in some other conspicuous manner.

(7) Special licenses for the transport of petroleum shall, unless earlier revoked by competent authority, be in force for such period not exceeding six months from the date of the grant thereof as shall be fixed by Government or by the officer who grants the same.

(8) Every special license for the transport of petroleum shall specify the places from and to which respectively the petroleum is to be conveyed, the quantity of petroleum covered by the license, and the time for which the license is in force.

4. In No. 12 of the said rules under the said Section 11 all after the words "grant thereof" shall be omitted.

5. To No. 14 of the said rules there shall be added the following, *viz.* :—

"(7) General license for the transport of petroleum by rail, by road or by water for 12 months...Rs. 100."

6. The subjoined schedule of forms shall be substituted for the present Forms A to D.

SCHEDULE.

FORM A.

License to possess dangerous Petroleum to be granted under Section 5 or Section 6 of the Petroleum Act (XII of) 1886.

No.

Fee, Rs.....

License is hereby granted to

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for the storage in the place described below, of
gallons of dangerous petroleum, subject to
the rules and conditions prescribed on the reverse.

This licence shall continue in force for one year
from the date thereof, and may be renewed on ap-
plication being made for this purpose not less than
fifteen days previous to the expiry of the said year.

Description of premises above referred to:—

.. (Signed)

Secretary to the Government of Bombay.

When the amount of }
petroleum does not ex- }
ceed forty gallons }
 { *or* Municipal Commis-
 { sioner, Bombay.
 { *or* Resident, Aden.
 { *or* District Magistrate.

ENDORSEMENT ON FORM A.

Rules.

[Here enter Rules Nos. 1 to 5, both inclusive, and
No. 16 of the rules under Section 11 of the Act.]

Conditions.

This license is granted subject to the following
conditions:—

1. No goods of a combustible nature shall be
stored in the premises in respect of which this
license is granted.

2. Every case (or tin, &c.,) in which the
petroleum is contained must bear a label as re-
quired by Section 7 of the Act.

3. No vessel containing petroleum shall be
opened and no oil shall be drawn from any vessel
within the building in which the petroleum is
stored.

4. No smoking, fire or light in any form shall
be permitted at any time within the said build-
ing.

5. If Government, or the officer who grants
this license, requires the holder of this license,
by notice in writing, to execute any repairs
which may, in the opinion of Government, or of
such officer, be necessary for the safety of the
premises in respect of which this license is
granted, the holder of this license shall execute
the same within such period, not being less than
one week from the date of the receipt of the
notice, as may be fixed by the notice.

6. The license-holder shall not deliver any
quantity of the petroleum covered by this license
exceeding three gallons to any person who does
not hold a license to possess the same under Sec-
tion 5 or 6 of the Act. If he delivers any quan-
tity thereof not exceeding three gallons to any
person, he shall observe the provisions of the pro-
viso to Section 6 of the Act as to the vessels in
which such petroleum must be contained.

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FORM B.

Special License to transport dangerous Petroleum to be granted under Section 5 or Section 6 of the Petroleum Act (XII of) 1886.

No.

Fee, Rs....

License is hereby given to _____ of _____ under Section _____ of the Petroleum Act, 1886, to transport cases (or tins, &c., as the case may be) containing in all _____ gallons of dangerous petroleum from _____ to _____ subject to the rules and conditions prescribed on the reverse, and by the following route, namely :—

The amount of petroleum in each case (or tin &c.) is stated below :—

This license shall continue in force only till the _____ day of _____ 189 .

(Signed)

Secretary to Government.

When the amount of petroleum does not exceed forty gallons. { or Commissioner or Deputy Commissioner of Police, Bombay.
or Resident, Aden.
or District Magistrate.

ENDORSEMENT ON FORM B.

Rules.

[Here enter Nos. 1, 2, 6 and 16 of the rules under Section 11 of the Act.]

Conditions.

This license is granted subject to the following conditions :—

1. The petroleum shall be contained in vessels labelled in accordance with Section 7 of the Act.

2. The petroleum shall be carried (here describe mode or modes of conveyance).

3. When the petroleum is carried by steamer it shall be stowed in such part of the steamer and in such manner as may be approved by the licensing officer or any officer appointed by him in writing in this behalf.

4. When the petroleum is carried by rail it shall be subject to all the regulations which may from time to time be prescribed generally or specially in that behalf by the Railway authorities of the line or lines over which it may be conveyed.

5. When the petroleum is being carried by boat, no smoking, fire or light of any description shall be allowed in the boat so long as it is within the limits of any port in the Bombay Presidency, including Aden. The boat containing the petroleum should also, from sunrise to sunset, show at its stern a red flag eighteen inches long and twelve

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inches broad, having the words "Petroleum Boat" marked on it in black letters.

6. When the petroleum is carried by cart, the cart conveying the petroleum shall not move after sunset or before sunrise, or carry any light.

7. The license-holder is prohibited from delivering any quantity exceeding 3 gallons to any one who has not a license under Section 5 or 6 of the Act, or any less quantity of petroleum, except in accordance with the conditions of the proviso to Section 6 of the Act as to the vessels in which the petroleum must be contained.

FORM C.

License to possess Petroleum, other than dangerous Petroleum, to be granted under Section 10 of the Petroleum Act (XII of) 1886.

No.

Fee, Rs.....,

License is hereby granted to
for the storage in the premises described below of
gallons of petroleum which is not dangerous petroleum, subject to the rules and conditions prescribed on the reverse.

This license shall continue in force only till the
day of 189 .

Description of the premises above referred to:—

(Signed)

Municipal Commissioner, Bombay.

or Resident, Aden.

or District Magistrate.

The 189 .

ENDORSEMENT ON FORM C.

Rules.

[Here enter Nos. 1 to 5, both inclusive, and No. 16 of the rules under Section 11 of the Petroleum Act (XII of) 1886.]

Conditions.

This license is granted subject to the following conditions:—

1. No goods of a combustible nature shall be stored in the premises in respect of which this license is granted.

2. No vessel containing petroleum shall be opened and no oil shall be drawn from any vessel within the building in which the petroleum is stored,

3. No smoking, fire or light in any form shall be permitted at any time within such building.

4. If the licensing officer requires the holder of this license, by notice in writing, to execute any repairs which may, in the opinion of such officer, be necessary for the safety of the premises

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in respect of which this license is granted, the holder of this license shall execute the same within such period, not being less than one week from the date of the receipt of the notice, as may be fixed by the notice.

FORM D.

License to possess Petroleum in bulk, other than dangerous Petroleum, to be granted under Section 10 of the Petroleum Act (XII of) 1886.

No.

Fee, Rs.....

License is hereby granted to
for the storage, in the place described below, of
gallons of petroleum, subject to the rules and
conditions prescribed on the reverse.

Description of the place above referred to :—

Municipal Commissioner, Bombay.
or Resident, Aden.
or District Magistrate.

The 189 .

ENDORSEMENT ON FORM D.

Rules.

[Here enter Nos. 1 to 5, both inclusive, and No. 16 of the rules under Section 11 of the Act.]

Conditions.

[Here enter such conditions as to plans and specifications as the Local Government has prescribed under Rule 3A of the rules made under Section 11.]

FORM E.

Special License to transport Petroleum, other than dangerous Petroleum, granted under Section 10 of the Petroleum Act (XII of) 1886.

No.

Fee, Rs.....

License is hereby granted to to transport
from to cases containing*
gallons of petroleum, subject
to the rules and conditions prescribed on the reverse.

This license shall continue in force till the
day of 189 .

Dated 189 .

Commissioner or Deputy Com-
missioner of Police, Bombay.
or Resident, Aden.
or District Magistrate.

* Omit these words when petroleum is to be transported in bulk.

PETROLEUM.]

ENDORSEMENT ON FORM E.

Rules.

[Here enter Nos. 1, 2, 6 and 16 of the rules under Section 11 of the Act.]

Conditions.

This license is granted subject to the following conditions :—

When conveyed by Steamer.

1. The petroleum shall be stowed in such part of the steamer and in such manner as may be approved by the licensing officer or any officer appointed by him in writing in this behalf.

When conveyed by Boat.

2. No smoking, fire or light of any description shall be allowed in the boat in which the petroleum is being carried.
3. The boat conveying the petroleum shall also, from sunrise to sunset, show at its stern a red flag 18 inches long and 12 inches broad, having the words "Petroleum Boat" marked on it in black letters.

When conveyed by Cart.

4. The carts conveying the petroleum shall not move after sunset or before sunrise, or carry any light.

When conveyed by Rail.

5. The petroleum shall be subject to all the regulations which may from time to time be prescribed generally or specially in that behalf by the Railway authorities of the line or lines over which it may be conveyed.

6. When this license is granted for oil in bulk, the steamer, barge, cart or railway wagon in which the oil is transported must be duly certified as required in Rule 6 of the rules under Section 11. When the license is granted for petroleum otherwise than in bulk, the petroleum must, as required in the said Rule 6, be packed in airtight tins or other vessels not easily broken or be contained in bottles securely stopped and carefully packed so as to avoid risk of breakage.

General Condition.

7. This license shall be valid only for the route specified on it and shall be produced to any railway or other carrying agency employed for the transport of the petroleum, and shall be returned to the licensing authority on the expiry of the term for which the license is valid.

[PETROLEUM.]

FORM F.

General license to transport in bulk (or otherwise than in bulk as the case may be) Petroleum, other than dangerous Petroleum, to be granted under Section 10 of the Petroleum Act (XII of) 1886.*

See Rule 6,* (6) (a).

No.

Fee, Rs. 100.

A general license is hereby granted to transport petroleum, other than dangerous petroleum in bulk* (or otherwise than in bulk, as the case may be), within the Presidency of Bombay, subject to the rules and conditions prescribed on the reverse.

This license shall continue in force till the

Dated the	day	{	Commissioner or Deputy
of	189 .		Commissioner of Police, Bombay.
			or Resident, Aden.
			or District Magistrate.

ENDORSEMENT ON FORM F.

Rules.

[Here enter Nos. 1, 2, 6 and 16 of the rules under Section 11 of the Act.]

*Conditions.**When conveyed by Steamer.*

1. The petroleum shall be stored in such part of the steamer and in such manner as may be approved by the licensing officer or any officer appointed by him in writing in this behalf.

When conveyed by Boat.

2. No smoking, fire or light shall be allowed in the boat in which the petroleum is being carried.

3. The boat conveying the petroleum shall, from sunrise to sunset, show at its stern a red flag eighteen inches long and twelve inches broad, having the words "Petroleum Boat" marked on it in black letters.

When conveyed by Cart.

4. The carts conveying the petroleum shall not move after sunset or before sunrise, or carry any light.

When conveyed by Rail.

5. The petroleum shall be subject to all the regulations which may from time to time be prescribed generally or specially in that behalf by the Railway authorities of the line or lines over which it may be conveyed.

6. The number of the license shall be legibly marked on a conspicuous part of the last case on the cart, or in some other conspicuous manner.

* G. N. No. 5710, dated 5th September 1893.

PETROLEUM.]

General Condition.

7. When this license is granted for oil in bulk, the steamer, barge, cart, or railway wagon in which the oil is transported must be duly certified as required in Rule No. 6 of the rules made under Section 11.

When the license is granted for petroleum otherwise than in bulk, the petroleum must, as required in the said Rule No. 6, be packed in air-tight tins or other vessels not easily broken, or be contained in bottles securely stopped and carefully packed so as to avoid risk of breakage.

FORM G.

*Pass to be granted by the holder of General License No. , for the transport in bulk *(or otherwise than in bulk as the case may) of Petroleum, other than dangerous Petroleum.*

No.

This pass covers cases containing*
gallons of petroleum *bond fide* the property of
while in transport from to

Dated 189.

Holder and General License No.

* The words " cases containing " to be omitted when the petroleum is transported in bulk.

ENDORSEMENT ON FORM G.

When conveyed by Steamer.

1. The petroleum shall be stowed in such part of the steamer and in such manner as may be approved by the licensing officer or any officer appointed by him in writing in this behalf.

When conveyed by Boat.

2. No smoking, fire or light shall be allowed in the boat in which the petroleum is being carried. The boat conveying the petroleum shall, from sunrise to sunset, show at its stern a red flag eighteen inches long and twelve inches broad, bearing the words "Petroleum Boat" marked on it in black letters.

When conveyed by Cart.

3. The carts conveying the petroleum shall not move after sunset or before sunrise, or carry any light.

When conveyed by Rail.

4. The petroleum shall be subject to all the regulations which may from time to time be prescribed generally or specially in that behalf by the Railway authorities of the line or lines over which it may be conveyed.

General Conditions.

5. The number of the general license under which this petroleum is transported shall be le-

* G. N. No. 5710, dated 5th September 1898.

gibly marked on a conspicuous part of the last case on the cart, or in some other conspicuous manner.

6. When this license is granted for oil in bulk, the steamer, barge, cart or railway wagon in which the oil is transferred must be duly certified as required in Rule 6 of the rules made under Section 11. When the license is granted for petroleum otherwise than in bulk, the petroleum must, as required in the said Rule 6, be packed in air-tight tins or other vessels not easily broken, or be contained in bottles securely stopped and carefully packed so as to avoid risk of breakage.

(G. N. No. 5018, dated 11th July 1893.)

III.—TESTING OF PETROLEUM.

1. Under the provisions of Section 21, sub-section (2), of the Petroleum Act, XII of 1886, the Governor General in Council is pleased to prescribe the following form of certificate of verification of petroleum testing apparatus:—

Certificate under Section 21 of the Petroleum Act XII of 1886.

This is to certify that the apparatus stamped by me with the No. and with the date and provided with two slides, marked A and B and three thermometers numbered 1, 2 and 3, respectively, having been submitted to me for the purpose of being compared with the model test apparatus and verified under Section 21 of the Petroleum Act XII of 1886, has been compared and verified by me on the date aforesaid with the following results:—

I. When the slide marked A is used with the thermometer number 1 the apparatus records* the flashing point of an oil.†

II. When the slide marked A is used with the thermometer number 2, the apparatus records*the flashing point of an oil.†

III. When the slide marked A is used with the thermometer number 3, the apparatus records*the flashing point of an oil.†

IV. When the slide marked B is used with the thermometer number 1, the apparatus records*the flashing point of an oil.†

V. When the slide marked B is used with the thermometer number 2, the apparatus records*the flashing point of an oil.†

VI. When the slide marked B is used with the thermometer number 3, the apparatus records*the flashing point of an oil.†

(G. I., H. D., Notn. No 1079, dated 2nd August 1890; *vide* G. N. No. 5430, dated 6th idem.)

* If the apparatus records correctly, enter here the word 'correctly.'

† If the apparatus records the flashing point above or below the truth as ascertained by comparison with the model test apparatus enter here '... ..(degrees and decimals) too high' (or 'too low' as the case may be).

PETROLEUM.]

2. Under the provisions of Section 9 of the Petroleum Act of 1886, His Excellency the Governor in Council is pleased to appoint the officers hitherto * entrusted with the work of testing petroleum at Bombay, Aden and Karáchi to be the testing officers for the purposes of that Act and the rules made thereunder. (G. R. No. 5199, dated 7th August 1890.)

3. The following letter from the Chemical Examiner to Government, Calcutta (No. 827-A., dated 12th September 1890), on the subject of the use of the petroleum test apparatus supplied for the ports in the Bombay Presidency was forwarded to the Chemical Analyser to Government, Bombay, for information and guidance, and also to the Political Resident at Aden and the Commissioner in Sind for communication to the officers appointed to test petroleum at Aden and Karáchi:—

"I have the honour to bring to your notice the following points in connection with the use of petroleum test apparatus, on which I think it very desirable that definite instructions should be issued to officers employing the instruments.

"2. I have found the thermometers, on receipt from England, in most cases cannot be used at once, because a portion of the mercury from the column has been forced into the small pear expansion of the capillary bore at the top of the stem. This is owing to the cases containing the instruments having been inverted during transit; and as there is every probability of the boxes being treated in a similar way, in spite of 'this side up' labels, during their transmission in India, it is requisite that testing officers should be warned against a source of error which would entirely invalidate the accuracy of any tests. I have appended directions for setting the thermometers. It would, however, be far more satisfactory for me to personally set the instruments, and at the same time to give practical instructions in the use of apparatus. Though I have tried to render the directions as simple as possible, I fear that in the hands of officers unaccustomed to handle physical apparatus, thermometers will be broken in attempts at adjustment; and I have no spare ones to replace those broken.

"3. As Government is aware, two slides with three thermometers have been issued with each apparatus—two thermometers for testing ordinary oils, and the third for lubricating oils. Two contingencies are possible—a slide or thermometer may break. In the case of a thermometer breaking, two would still be left for carrying on the work; but in the case of one slide being thrown out of work, the fact of the remaining slide being actuated by mechanism and the risk of its breaking through any slight accidental cause, has to be remembered, and steps must, therefore, be at once taken to replace the broken one. The instruments have been verified as a whole. Each slide has been verified with each thermometer, and each thermometer with each slide; so that each set of instruments issued, represents six sets of apparatus. A broken thermometer cannot be

* The work of testing petroleum was entrusted under the rules under the Petroleum Act VIII of 1881, in Bombay to the Chemical Analyser to Government or the Assistant Chemical Analyser to Government, in Karáchi to the Civil Surgeon or the Assistant Surgeon in charge of the Manora Dispensary and in Aden to the Port Surgeon; *vide* G. N., G. D., 4239, dated 9th November 1885.

[PETROLEUM.]

replaced by a new one until it has been verified on each of the two slides. Similarly, a broken slide cannot be replaced by a new slide, until it has been tested with each of the three thermometers.

"4.* What is a testing officer to do when a slide or thermometer breaks? He cannot be supplied with duplicates unless he returns the whole set into store. I have in store two sets of apparatus. I propose calling them 'spare sets' No. 12 and No. 13. Madras and Bombay might each be supplied with one. I can also put together a third spare set, which might be kept in Calcutta, forming spare set No. 14. On a thermometer or a slide breaking, the testing officer should at once telegraph for a spare set to his Presidency town, and immediately on its arrival despatch to Calcutta his defective apparatus for re-verification.

5. It is desirable that I should have in store at least one dozen thermometers for the oil-cup, graduated from 50° to 100° Fahr. For testing ordinary petroleum, six thermometers, graduated from 56° to 200° Fahr., for testing lubricating oils and six thermometers for water-baths.

"6. Some of the spare slides now in store are defective and must be repaired."

Rules for Examination of Thermometers, &c., &c.

On receipt, examine each thermometer most carefully in a good light to ascertain whether any mercury or not has been forced into the small pear-shaped bulb at the top of the stem. A globule of mercury, no larger than a small pin's head, thus detached from the column will entirely vitiate the results of a test. If mercury be found detached from the columns, grasp the lower part of the stem of the thermometer with the right hand while the fingers support the bulb, and try and jerk the detached mercury back into the column; should this fail, very cautiously heat the bulb, when the mercury will ascend and enter the bulb at the top, and then allowing the instrument to cool; as the mercury descends it takes with it the detached column. In this manner the greater part of the detached mercury will be forced to join the main column, but it sometimes happens that a very minute globule obstinately adheres to the apex of the pear-shaped bulb at the top of the stem. It may occasionally be dislodged by tapping the tube; it is not permissible to heat the mercury in the bulb until the whole of the pear-shaped cavity is filled; the instrument would certainly be broken under such conditions, but the pear-shaped bulb may be very cautiously and slowly heated, and the mercury vapourized and made to condense in the capillary bore. The mercury in the bulb is then heated, until the two columns unite. A break due to a minute bubble of air will sometimes be seen between the two columns, in which case the heating of the mercury in the bulb should be continued, until the portion of the columns in which the air bubble occurs has overflowed into the pear-shaped cavity. The instrument is then allowed to cool, when the mercury will contract, and the overflowed portion be withdrawn from the pear-shaped bulb. These operations must be conducted with the utmost caution, as thermometers are very easily fractured.

If the water-bath thermometer be accidentally broken, telegraph to Calcutta for a new one, and as a temporary measure use an oil-cup thermometer. It is not necessary to return the water-bath into store to have a new thermometer fixed.

* *Note.*—The suggestion contained in this paragraph, that the Governments of Madras and Bombay should be supplied with a spare set each of the apparatus and that a third set should be kept in reserve at Calcutta, was approved by the Government of India, provided that the instruments referred to were not intended for ports to which they have not been sent; *vide* Government of India, Home Department, letter No. 1395, dated 25th September 1890, to the Chemical Examiner to Government, Calcutta.

PETROLEUM.]

If a slide or an oil-cup thermometer be broken, telegraph, in the case of stations in the Bengal, Bombay and Madras Presidencies, to Calcutta, Bombay and Madras, respectively, for a spare set of apparatus. On receipt of the spare set, return immediately to Calcutta both slides, all the oil-cup thermometers and the testing-cup. The water-bath, jacket and water-bath thermometer need not be returned.

(G. R. No. 7426, dated 18th October 1890.)

4. Under the provisions of Section 21, Sub-section (5), of the Petroleum Act, XII of 1886, the Governor General in Council is pleased to prescribe a fee of one rupee for the inspection of the model test apparatus deposited in the office of the Chemical Examiner to Government, Calcutta. (G. I., H. D., Notn. No. 1474, dated 9th October 1890; *vide* G. R. No. 7727, dated 30th idem.)

5. Under the provisions of Section 21, Sub-section (1) of the Petroleum Act, XII of 1886, the Governor General in Council is pleased to prescribe the following rates of fees for the verification of apparatus for testing petroleum, which may be submitted to the Chemical Examiner to Government, Calcutta, for that purpose, *viz.* :—

Rs. 16 for the verification of one slide with one thermometer, which fee will cover the cost of engraving the name of the owner on the apparatus, and Rs. 10 for each additional slide or thermometer verified after the first. (G. I., H. D., Notn. No. 1475, dated 9th October 1890; *vide* G. R. No. 7727, dated 30th idem.)

IV.—MISCELLANEOUS.

1. *Provisional publication of draft Rules.*—In exercise of the power conferred by Section 24, Sub-section (1), of the Indian Petroleum Act, 1899 (VIII of 1899), the Governor General in Council is pleased to direct, in supersession of the Notification of the Government of India in the Home Department, No. 187, dated the 1st February 1887, that drafts of rules which it may be proposed to make under the said Act shall be published—

(a) when the authority making the rules is a Local Government, in three consecutive issues of the local official Gazette in English and in such other language or languages as the Local Government may direct; and

(b) when the authority making the rules is the Governor General in Council, in three consecutive issues of the *Gazette of India* in English, and in three consecutive issues of the local official Gazette (if any) of every Local Government in British India in English and in such other language or languages as the Local Government may direct.

(G. of I. Notn. No. 562, dated 12th April 1899; *vide* G. R. No. 3034, dated 2nd May 1899.)

2. *Report on applications for licenses to import dangerous petroleum.*—The Chemical Analyser to
 B 1935—376 Rev.

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Government should in reporting on applications for licenses to import dangerous petroleum, state specifically his opinion on the points mentioned in clause (3) of Section 5 of the Petroleum Act XII of 1886, in order to enable Government to decide whether the licenses asked for can be granted, consistently with the provisions of the Act. (G. R. No. 445, dated 19th January 1891.)

3. It is necessary that, in the matter of import of dangerous petroleum, the Municipal Commissioner for the City of Bombay should exercise the discretion vested in him under No. 11 of the Rules to regulate the granting of licenses for the Possession and Transport of Petroleum in the Presidency of Bombay. The case contemplated by Rule 11 is the case of such forms of petroleum, as mineral naphtha or benzoline, as are distillates of petroleum. These are used for certain purposes for which non-dangerous petroleum cannot be used. In the case of paints and varnishes, the presence of dangerous petroleum is not a necessity. In view of this distinction on which the Petroleum Act lays so much stress, and also considering the special risk which attaches to the use of a dangerous form of an article such as paint with which no special danger or precaution has hitherto been associated, the Municipal Commissioner should adopt measures for checking the import of quantities of dangerous petroleum not exceeding 40 gallons. With this object the Municipal Commissioner should refer to the Customs authorities all applications which he may receive for licensing consignments of less than 40 gallons of dangerous petroleum. In reply the Customs Authorities could state as contemplated in 5 (2) (b) the purpose for which the oil is to be used, and (c) that petroleum other than dangerous petroleum cannot be used for this purpose. With the information before him, the Municipal Commissioner would be in a position to exercise the discretion vested in him under Rule 11.

2. No avoidable delay should be allowed to occur in disposing of applications for licenses. (G. R. No. 6759, dated 19th September 1893.)

4. *Fees.*—In the case of petroleum imported on behalf of Government, the consignees should pay the prescribed fee leviable on the transport license and then prefer an application for its refund. (G. R. No. 2048, dated 19th March 1891.)

5. Fees for testing Government petroleum should not be demanded. (G. R. No. 7276, dated 22nd October 1891.)

6. The fees for licenses levied by the Commissioner of Police, Bombay, under the rules under the Petroleum Act should be in cash. (G. R. No. 7464, dated 12th October 1893; *vide* also G. R., G. D., No. 3452, dated 20th September 1884.)

7. *Certificated Petroleum.*—No certificates granted at the ports of exports should be recognized

PETROLEUM.]

under Section 2 (3) of the Petroleum Import Rules. (G. R. No. 9104, dated 18th November 1892.)

8. *Transport.*—The removal of petroleum from a warehouse to a shop or other place within the city of Bombay is a 'transport' within the meaning of that term as defined in Section 3 (4) of the Petroleum Act, 1886. This strict interpretation, however, would probably cause great inconvenience without much corresponding advantage, and it need not be insisted on in practice, if the Bombay Government are satisfied that it can safely be disregarded. The existing practice according to which licenses for removal from one warehouse or place to another within the city are required only in the case of dangerous petroleum, is a very reasonable one. (G. I., H. D., No. 747, dated 3rd July 1893; *vide* G. R. No. 5018, dated 11th *idem*.)

In exercise of the power conferred by Section 21 of the Indian Petroleum Act, 1899, His Excellency the Governor in Council is pleased to exempt from the operation of all the provisions of the said Act and of all the rules made under the said Act, shale oil, which has its flashing point not lower than two hundred degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantities not exceeding ten thousand gallons in each consignment. (G. N. No. 5364, dated 2nd August 1899.)

PUBLIC BUILDINGS.*

1. Proposals for the sale of buildings should be submitted to Government, as it is often desirable, before sanctioning such sales, to ascertain if the buildings are required by any other department of the service. (G. R. No. 3911, dated 28th October 1862.)

2. It is expedient that the Public Works Department should be consulted by the Revenue Department in all cases where it is proposed to sell Government buildings in their charge or the remains of such buildings. The Commissioners of Divisions and the Commissioner in Sind are authorized to sell petty or abandoned buildings valued at less than Rs. 1,000 in charge of the Civil Department and not borne on the Public Works returns. (G. R. No. 7073, dated 24th November 1881, and G. R., F. D., No. 1529, dated 17th June 1887.)

3. The Collector should let each kacheri or other building in charge of a guard furnishing a relief of sentries during the night be supplied with a good lantern of ordinary construction, and should give stringent orders that this shall invariably be used when it is necessary to carry about a light for the inspection of locks, seals, &c., during the night.

The lantern should be delivered to the guard every evening by the kacheri *masil*, or other person responsible for keeping it clean and in order, and the guards should be held responsible for reporting when it is not delivered to them in order and in clean condition.

The Collectors should also give such orders as will prevent any of the oil lamps used in the kacheris of their Collectorates from assuming the character of dripping fountains of rancid oil forming offensive heaps of grease and filth where they stand. (G. R. No. 610, dated 20th February 1864.)

4. The standard plan for the Mámlatdár's kacheri having been arrived at after very considerable discussion and consideration on an estimate of average requirements, if more accommodation for records is needed in one place, less should be provided in another. Revenue officers when applying for a new kacheri should state what accommodation for records is needed above or below the average provided for by the standard plan, and their reasons in each case should be given to the satisfaction of the Revenue Department before the matter is taken up by the Public Works Department. (G. R. No. 1114, dated 23rd February 1875.)

5. In proposals for building Mámlatdárs' kacheris, sites are sometimes selected outside the taluka towns, but such situations are open to the following objections:—

(a) The inconvenience of distance to the people of the town and those lodging there who have business at the kacheri;

* *Vide* also orders under "Finance and Resource" (sub-head "Public Works").

[PUBLIC BUILDINGS.]

(b) the comparative want of publicity in proceedings going on at the various offices ;

(c) the greater risks implied in the isolation of the building containing treasure, prisoners, &c., especially at night and in the rainy season ;

(d) the withdrawal from the town and from immediate call for service of such Police as may be at the kacheri off duty.

A hard and fast rule cannot be laid down, but each site will have to be selected with reference to the above points, which should be carefully borne in mind in submitting proposals for new kacheris.

(G. Rs. Nos. 2933, dated 11th May 1887, and 2114, dated 5th April 1888.)

6. There is no objection to the employment of prisoners undergoing rigorous imprisonment in subordinate jails attached to Mámlatdárs' kacheris for the purpose of watering the trees in the compounds of the offices, provided that convenient arrangements involving no extra expense to Government can be made by the Jail authorities. (G. R., F. D., No. 2370, dated 18th June 1889.)

7. Mámlatdárs and Maháلكaris should keep earthen jars filled with water near the record rooms in their kacheris as a precaution against fire, and it will be one of the duties of all officers examining these kacheris to see that these orders are properly carried out. (G. R. No. 6740, dated 9th September 1889.)

8. The places used for custody of records should be regularly visited by the guards on duty at the kacheri at intervals or at least at the time of reliefs. The Magistrates should instruct the Police Superintendents to arrange for the maximum number of visits which can be given in each case without harassing sentries unduly. The Police should include every public building for which a guard is not specially provided in their ordinary beats or rounds, and should have a special care for the protection of all such buildings.

A board studded with nails should be put near the guard room on which should be hung the keys of the Huzúr offices after they are closed for the night. Over each nail and key the name of the office to which the key belongs should be printed in plain letters on the board, so that the guard could at once open the office door if he saw or heard anything amiss inside a room.

(G. Rs. Nos. 6072, dated 7th September 1888, and 6705, dated 9th September 1889, and G. R., J. D., No. 5823, dated 24th October 1888.)

9. Grants of public money should not be made towards repairing temples even when they are used or *buhávdís*, and no works connected with the repair returns-ilding of temples should be entered in the dated 11th of works of public utility. (G. R. No. 4214, h October 1865.)

PUBLIC BUILDINGS.]

10. Chávdís are used and perhaps in their origin were intended for purely Imperial purposes. They are now also devoted to a considerable extent to what may be called Local Fund objects, that is to say, they are used as rest-houses for travellers and for the social gatherings of the villagers themselves. It is, therefore, just that not only should Government contribute Imperial money to the maintenance of the chávdís, but the Local Fund Committees should do so too, and the villagers themselves should assist by giving either money or labour. (G. R. No. 2112, dated 24th April 1874.)*

11. Proposals for making alterations and additions to public offices will not be entertained without full information as to the circumstances which render the expenditure desirable or necessary. (G. R., P. W. D., No. 271-C. W.-1090, dated 19th June 1871; *vide* G. M. No. 3038, dated 23rd *idem*.)

12. The designs and specifications of all new buildings on the Bombay Esplanade should be referred to the P. W. Department before sanction is granted. (G. R. No. 4447, dated 2nd August 1876.)

13. Every design and estimate relating to buildings must be submitted to the department concerned before being sent to the authority by whom it has to be sanctioned. The plans concerning any particular department should be countersigned by the head of that department, in token of approval of the design and all proposed arrangements.

It is necessary that even if a Collector has signed a plan in token of his approval, the Commissioner, as the head of the department, should also do so. The Inspector-General of Registration and Stamps should be consulted as to dimensions necessary for Sub-Registrars' offices in new Mámlat kacheris. (G. Rs., P. W. D., Nos. 149-C. W.—497, dated 24th March 1886, and 235-C. W.—899, dated 4th June 1892, and G. M. to the Commissioner, N. D., No. 6752, dated 19th September 1893.)

14. When a public officer in civil employ rents a Government building, the officer in charge of the building may inform the Accountant General, in whose circle the officer who rents the building is employed, of the amount of rent payable on account of it, and the Accountant General should make arrangements for deducting the rents from the officer's salary. If, when the officer leaves the station, any rent is still due from him, the fact should be stated in his last pay certificate, so that it may subsequently

* Government Resolution No. 7261, dated 24th December 1875, directed that as a general rule assistance should not be granted from the Imperial grant to chávdís in cases where no village contribution had been raised, and that when a very exceptional case occurred, it should form the subject of a separate report to the Commissioner, who might, at his discretion, allow Imperial money to be given where no village contribution had been raised. Under Government Resolution, Financial Department, No. 1550, dated 20th April 1893, charges on account of construction and repair of chávdís are now treated as countersigned contingencies.

[PUBLIC BUILDINGS.]

be recovered. (G. I., F. D., No. 2828, dated 17th August 1871, republished in the *Bombay Government Gazette* of 31st idem.)

Note.—It has been laid down in Government Resolution, Public Works Department, No. 103-A—375, dated 3rd March 1892, that it would suit the convenience of all concerned, if rents due from Government officers were recovered by deductions from their salary bills, and that this course should be followed in all departments, when feasible.

15. The following is the standard form of lease for adoption in all cases of hiring of buildings for Government in which special conditions are not deemed necessary :—

An Agreement made the _____ day of _____ 18 _____ between A.B. of _____ (hereinafter called the lessor) of the one part and the Secretary of State for India in Council (hereinafter called the lessee) of the other part.

The lessor hereby agrees to let and the lessee to take the house situate in the _____ of _____ on the _____ side of the road called _____ to which it fronts, numbered No. _____ by the Municipality (or village officers) now in the occupation of _____ and formerly in the occupation of _____ with the open compound, and separate sheds and out-houses appertaining thereto for the term of _____ months from the day of _____ 18 _____, and so on from month to month until this lease shall be determined at the end of the said _____ months or of any subsequent month by either party giving to the other two months' previous notice in writing, at the monthly rent of Rs. _____ to be paid in arrear not later than the day of each month, the first of such payments to be made not later than the day of _____ 18 _____.

And the lessor doth hereby for himself, his heirs, executors, administrators and assigns covenant with the lessee as follows (namely) :—

(1) That he will during the said term keep the said premises in good condition and complete repair to the satisfaction of the *

and that should he fail so to do, the said _____ may on giving to the lessor one month's previous notice in writing execute all such repairs as he deems necessary at his own cost, and recover the amount thereof from the lessor by deducting the amount of the said costs from the rent then due or thereafter from time to time to become payable to the said lessor, or otherwise as he deems fit.

(2) That he will not by notice as aforesaid require the lessee, without the lessee's consent, to deliver up the said premises to him at any time during the monsoon season commencing on the 1st June and terminating on the 31st October in each year.

And the lessee agrees with the lessor to pay the said rent in manner aforesaid, and on the deter-

* (Here enter the name of the officer occupying the premises, or of his superior officer, as may be deemed most suitable in each case.)

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mination of the lease to quietly deliver up the said premises.

The lessor agrees with the lessee that he, paying the said monthly rent, may peaceably hold the said premises during the lease without any interruption by the lessor or any person claiming under him.

In witness whereof the lessor hath hereunto set his hand, and *

hath by order of the Governor in Council of Bombay also hereunto set his hand on behalf of the Secretary of State in Council, the day and year first hereinbefore written.

Signed and delivered
by the above named

in the presence of

(G. R., J. D., No. 2986 of 7th May 1877; *vide* G. M. No. 3688, dated 13th June 1877.)

16. The Civil and Military Departments occupying public buildings in Bombay should furnish a return to the Executive Engineer, Presidency, showing how each building is occupied and whether there is any room available for another office or offices in such building. This return should be submitted on the 31st of March of each year, and all intermediate changes in occupation and vacation of buildings should be promptly reported to that officer. (G. R., P. W. D., No. 220-C. W.—688, dated 10th July 1880; *vide* G. R. No. 4001, dated 31st July 1880.)

17. The attention of all Heads of Offices under the Revenue, Financial and General Departments is invited to the orders conveyed in Government Notification, dated 26th March 1844, quoted below:—

“The Honourable the Governor in Council is pleased to resolve that no public office shall be used as a private residence except with the permission of Government”

(G. R. No. 1477, dated 23rd February 1886.)

18. District officers are permitted while on tour to use temporarily a portion of the Mám-lat-dár's kacheris at Devgad and Málvan in the Ratnágiri District as a residence, it being distinctly understood that no inconvenience will be caused thereby to the transaction of their ordinary duties by the Mám-lat-dárs and their establishments. (G. R. No. 2514, dated 1st April 1886.)

19. No Government building should be placed at the disposal of a Municipality without the consent of the Executive Engineer of the District, and the sanction of Government in the Public Works Department. (G. R. No. 2211, dated 22nd March 1889.)

20. The Governor General in Council is pleased to lay down the following rules in supersession of all previous orders, for regulating the rents to be

* (Here enter the name of the officer authorized by the Government of India to execute such contracts.)

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charged for Government buildings occupied as residences by Government officials:—

I.—(1) The rent should be a sum which will cover—

(a) Four per cent. interest on the actual capital cost of the house and its site.

(b) The estimated average annual cost of repairs.

The capital cost of the house should be taken as the cost of the building and its site, together with a sum to cover the share of tools and plant and establishment. The amount to be added for these charges may be specially approved by the Local Government, but should not be taken as less than 20 per cent. on the cost of "works." When there is no record of the original cost of the building, its present value should be estimated by the Executive Engineer of the Division and approved by the Superintending Engineer; and this estimate should be taken as the capital cost.

(2) The average cost of annual repairs should be specially estimated in each case by the Executive Engineer on the best data available, and be approved by the Superintending Engineer. Such average cost should not, as a rule, be taken at less than 3 per cent. on cost of a permanent building, or 6 per cent. on the cost of a temporary building, but should be sufficient to cover quadrennial and special repairs. The actual cost of repairs should be compared annually with the amount assessed on this account in the rent; and, when necessary, the rents should be revised.

(3) In calculating the outlay on repairs of any building, a sum should be included to cover the cost of tools and plant and establishment, as defined above.

(4) When a building is occupied partly as a residence and partly as an office for which no rent is paid, the capital value of the portion occupied as a residence should be separately estimated and the rent calculated accordingly.

(5) The actual charge for the rent of a residence occupied by any Government official shall, in all cases, be subject to a maximum of 10 per cent. on the salary and local allowances of the official in actual occupation.

(6) Local Governments or Administrations must, irrespective of the fund from which the cost of the building was met, obtain the special sanction of the Government of India if they desire to reduce the rent of any Government building below that authorized in these rules:—

II.—At stations where owing to excess of available accommodation or to other special circumstances, rents cannot be fixed on the above principles, but must unavoidably be assessed with reference to prevailing rates, sanction to make such

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special assessments at the particular stations must be obtained from the Government of India, but the actual rents may be fixed by the Local Government.

III.—When any Government building is, under proper authority, let to a private person, rent shall be regularly recovered for the same at the rates prevailing in the locality for similar accommodation belonging to private owners; but without the permission of the Government of India, the rent charged shall not be less, at any station, than that defined in clause I (1),

IV.—In the case of houses occupied free of rent or at reduced rents by any Government officials, the authority under which the reduction is made should, in every case, be communicated to the Examiner of Accounts, in order that he may enter it in the return which is submitted to the Accountant General, Public Works Department, under Public Works Department Circular No. 3-P.W., dated 10th September 1887.

V.—

VI.—The above rules are not applicable to officers in regimental employ, nor to upper subordinates in the Public Works Department paying rent under Code XI, Section 29, nor to members of the subordinate Revenue Staff of State Railways.

As some misapprehension appears to exist concerning the interpretation of Section IV, it is considered necessary to explain that it is not intended to make any alteration in the rents of Government houses, occupied free of rent or at reduced rents by Government officials, when any specific sanction of the Government of India can be quoted for the existing practice. It is essential that the number and date of the letter giving the sanction of the Government of India should be communicated to the Examiner of Accounts. As, however, there may be probably be cases in which the grant of free quarters or reduced rents is no longer necessary, Local Governments and Administrations should, in such cases, assess rents under the rules laid down in the Resolution.

The Government of India has had under consideration certain cases of rents chargeable to officers drawing not more than Rs. 100 a month, and who, for the convenience of their work, are practically compelled to occupy certain houses. The Governor-General in Council is pleased to issue the following supplementary rules with reference to these cases :—

- (1) In the case of Government servants drawing salaries not exceeding Rs. 25 a month, Local Governments and Administrations are author-

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ized to charge whatever rents are thought suitable, or to remit rents entirely, according to the circumstances of each case.

- (2) In the case of Government servants drawing salaries exceeding Rs. 25 but not exceeding Rs. 100 a month, who are not already charged rent under any special rule of the Government of India, the amount of rent to be charged shall be fixed by the Local Government or Administration, subject to a minimum of five per cent. on the salary and local allowance of the occupant of the house.

(G. I., P. W. D., Nos. 479-B., dated 7th September 1888, and 214-B., dated 8th June 1889; *vide* G. Rs., P. W. D., Nos. 245A-1645, dated 26th September 1888, and 242A-1114, dated 25th June 1889, and G. M. No. 6096, dated 20th August 1889.)

21. The productive power of a compound should be treated as a reason for enhancing the rent of the building. Municipal taxes should be considered whenever the clause has to be used under which an officer's rent is not to exceed 10 per cent. of his salary; and where a rent has to be reduced in pursuance of this condition, Municipal taxes *should* be treated as part of the rent, *i.e.*, the rent *plus* tax must not exceed 10 per cent. of the occupant's salary. (G.I., P.W.D., No. 647-B., dated 31st December 1888; *vide* G. R., P.W.D., No. 33-A.-135, dated 21st January 1889.)

22. The proceeds of the sale of all trees, fruit and grass, &c., in the compounds of Government buildings used as offices, hospitals, &c., should be credited to Public Works Provincial Revenue, the disposal of the timber being in the hands of the Executive Engineer, and that of the other products in those of the head of the establishment occupying the premises.

The proceeds of the sale of all trees in Government buildings occupied as residences will be paid in to the Executive Engineer, without whose sanction no trees should be cut down, to be credited to Public Works Provincial Revenue. The produce of all fruit, trees, grass, &c., will be the property of the tenant for the time being, and the value of the same should be taken into consideration when fixing the rents of such buildings. These rules do not refer to Military Cantonments.

(G. R., P. W. D., No. 139-A.-686, dated 6th April 1889; *vide* G. M. No. 3622, dated 17th May 1889.)

The trees growing in the compounds of the buildings at Khárághoda are as a special case exempt from this ruling. (G. R., P. W. D., No. 14-A.—52, dated 7th July 1890; *vide* G. M. No. 509, dated 21st *idem*.)

23. All the central distilleries are furnished with small lines for the A'bkári Police guarding them, as the repairs of such buildings are done by the A'bkári contractors under the terms of their contracts. The contractors pay only a nominal rent for the use of the whole distillery buildings and premises, and are bound to maintain the whole in

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substantial repair to the satisfaction of the responsible local authorities. The buildings and their distribution between the contractor and the Government establishments employed at the distilleries pertain to the A'bkári Department. The A'bkári Commissioner will see that effect is given in all future contracts to the arrangement described. (G. R. No. 3118, dated 31st March 1892.)

24. No charge whatever should be levied from Government officials occupying district as distinguished from travellers' bungalows, and Assistant and Deputy Collectors in charge of the *tálukas* in which these bungalows are situated should be given a preferential right to occupy them. (G. R. No. 2670, dated 10th May 1873.)

25. Charges on account of district bungalows should be debited to Land Revenue on the principle that these bungalows are maintained for the accommodation of public officers engaged in that branch of the administration. (G. R. No. 2671, dated 10th May 1873.)

26. The following are the regulations for travellers' bungalows under Provincial control:—

I. The bungalows are for the temporary accommodation of travellers.

II. Regimental non-commissioned officers and soldiers, when not with detachments, or provided with lodging by the State, may take shelter in the bungalows, and for this no charge will be made. They must, however, vacate in favour of other travellers requiring the rooms, under the ordinary regulations. It will be understood that the exemptions granted to Regimental non-commissioned officers and soldiers on duty, does not apply to Staff Serjeants, or Telegraph or Railway subordinates.

III. The fee is one rupee per diem for each person occupying a separate room. Two or more persons occupying the same room to pay only the single fee of one rupee. Uncovenanted un-gazetted officers of all departments in receipt of a monthly salary not exceeding Rs. 200 when on duty during the rainy season, *i. e.*, from 1st June to 31st October, should be allowed to occupy travellers' bungalows on payment of a fee of 8 annas per diem instead of the full fee of one rupee; but this concession does not apply to those who pay half fee only for occupying the bungalow between sunset and sunrise; 8 annas is the minimum fee. (G. Rs., F. D., Nos. 3453, dated 27th September 1880, 381, dated 2nd February 1882, and 3872, dated 25th October 1883.)

IV. Travellers passing the night at the bungalow pay the full fee.

V. Travellers occupying the bungalows between sunrise and sunset only are subject to half fee.

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VI. (Cancelled ; *vide* G. R., F. D., No. 381, dated 2nd February 1882.)

VII. No one may occupy the same bungalow for more than three consecutive days, if the accommodation is otherwise required, without the permission of the Superintending Officer, who is usually the Executive Engineer of the District.

VIII. No person may occupy more than one room when the others are in demand.

IX. Officers and gentlemen in the service of Government are subject to the same fees for occupancy when travelling on duty as under other circumstances.

X. The Superintending Officer is responsible that the rooms be adequately furnished with plain cots, tables and chairs.

XI. A printed form changed monthly, will be kept in the bungalow. In this travellers are requested to enter their names, dates of arrival and departure, and amount of fees paid.

XII. Travellers are prohibited from sheltering their horses or other cattle or vehicles within the verandas of the bungalows.

XIII. Travellers will be held responsible for damage done by themselves or their servants to the bungalows or furniture.

XIV. There is a peon in each bungalow, who is bound to assist travellers in procuring supplies and carriage for ready money.

XV. The messmen who are established in some bungalows are required to place conspicuously in each room a list of charges, countersigned in approval by the Superintending Officer. If travellers prefer to procure their own meals, the peon is bound to afford them assistance, and they have the use of the cook-room.

XVI. The Superintending Officer is the referee in all cases of dispute. Travellers who have any complaints to make should address that officer by letter, or enter their complaint in the "Remarks" column of the printed form.

XVII. It is requested that all fees and demands, in accordance with the foregoing regulations, or the mess charges authorized by the Superintending Officer, be paid by travellers before leaving the bungalow; any irregularity, inconvenience, or other supposed cause for exemption from the regulated payment being referred to the Superintending Officer.

XVIII. It is the duty of the peons to report any violation of the foregoing regulations.

Note.—No part of a bungalow or of the bungalow compound may be used, nor may the servant be employed without payment of the regulated fee; and travellers using their own tents should be so informed.

Travellers who do not intend to use the bungalows must pitch their tents outside of the compound enclosure.

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(G. Rs., P. W. D., Nos. 444A-2656, dated 19th December 1873, 32A-177, dated 6th February 1874, and 66A-331, dated 4th March 1874; *vide* G. Ms. Nos. 836, dated 14th February 1874, and 1349 dated 16th March 1874.)

27. When the charges for maintenance and the receipts of a traveller's bungalow are entered in the Provincial Budget, Government Resolution, Financial Department, No. 2270, dated 2nd July 1879,* should apply, crockery and glass being regarded as ordinary articles of furniture. Where the maintenance and receipts of a traveller's bungalow are entered in the Local Fund budgets, the charges on their account may be sanctioned by the Commissioners with proper budget provision. (G. R., F. D., No. 3765, dated 11th October 1881.)

28. Collectors are authorized to incur small charges connected with travellers' bungalows up to a maximum limit of Rs. 120 a year. (G. Rs., F. D., Nos. 2195, dated 14th June, and 2711, dated 22nd July 1882.)

29. The *pagi* or peon in charge of each district or traveller's bungalow should be made to look after the trees in its compound. The trees in the compounds of bungalows controlled by the Public Works Department should be in the charge of the Executive Engineer of the District and those of bungalows under the Collector's control should be under that officer's charge. Attention should be paid to the conservancy and growth of trees in these compounds. (G. R., F. D., No. 1019, dated 20th March 1891.)

* *Vide* Chapter XII of the Accountant-General's Circular on the subject of contingent charges approved by Government Resolution, Financial Department, No. 2918, dated 27th August 1899.

PUBLIC OFFICERS.*

I.—ARBITRATIONS.

1. An officer shall not act as an arbitrator in any case without the sanction of his immediate superior, or unless he be directed so to act by a Court having authority to appoint an arbitrator.

2. No public officer shall act as an arbitrator in any case which is likely to come before him in any shape in virtue of any judicial or executive office which he may be holding.

3. If an officer act as an arbitrator at the private request of disputants, he shall accept no fees.

4. If he act by appointment of a Court of Law, he may accept such fees as the Court may fix.

(G. I., H. D., No. 544, dated 12th February 1873; *vide* G. R. No. 1013, dated 20th *idem*.)

II.—BORROWING AND LENDING MONEY.

1. It has been brought to the notice of the Governor General that public officers in some parts of India are in the habit of overdrawing their accounts with native bankers and other persons residing, or carrying on business, within the limits of their jurisdiction.

This practice is entirely opposed to the orders of Government, and is expressly prohibited by Section 3, Regulation VII, 1823, of the Bengal Code. This section is now republished for general information and guidance.

All Judges of Zillah and City Courts, all Magistrates, Joint Magistrates, Registrars and Assistants to Magistrates, all Collectors and Deputy Collectors of the Land Revenue, all Assistants to such Collectors or other officers exercising the powers of such Collector are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to any, zamindár, talukdár, rayat or other persons possessing real property, or residing in, or having a commercial establishment within the city, district or division to which their authority may extend.

Officers politically employed were prohibited by the orders of the Government of India, dated the 22nd March 1845, from borrowing money of, or lending money to, any native of India resident within their respective political circles.

The Governor General now calls the attention of all officers of Government employed in any Civil or Political capacity in any part of India to these express prohibitions, and warns them that by any infraction thereof, whether by overdrawing accounts with bankers or in any other way, they will incur the severe displeasure of the Government.

* See also "Service Rules" and "Revenue Officers and Servants."

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Residents, Agents, Commissioners and other Controlling Officers will be held responsible for checking any departure from the strict letter of this order on the part of their subordinates.

(G. I., For. D., Notn. No. 900, dated 31st December 1859; *vide* G. M. No. 548, dated 10th February 1860.)

2. The foregoing orders are not to be interpreted as prohibiting the purchase of miscellaneous stores of trifling amount from retail shop-keepers for payment on bills presented periodically. (G. I., For. D., No. 1166, dated 2nd April 1860; *vide* G. M. No. 1453, dated 19th *idem*.)

III.—CARRYING OUT OF GOVERNMENT ORDERS.

1. Government wish it to be clearly understood that they expect all their servants to aid one another cordially in carrying out the views and orders of Government. Any deviation from this course will meet with the marked displeasure of Government. (G. R. No. 4688, dated 17th August 1876.)

IV.—CHANGE OF NAMES.

1. Heads of departments may, on sufficient cause being shown, sanction change of names in the case of non-gazetted officers, sending an intimation of the fact to the Accountant General. Cases of gazetted officers should be submitted for the sanction of Government. (G. R. No. 2536, dated 13th July 1882.)

V.—COMMISSIONS.

1. Any paid servant of Government accepting a commission for taking evidence must hand over forthwith to his superior officer or the neighbouring treasury any and every sum which he may receive as a fee for his services.

Courts sending and receiving commissions should be informed that, so far as Government is concerned, there is no objection on its part to the defrayal of all fees that are paid or credited to Government by an equivalent amount in court-feestamps. A note of such payment should be made by the transmitting Court and formally taken cognizance of by the Court executing the commission. (G. R., J. D., No. 2551, dated 11th May 1889, and G. R. No. 4898, dated 9th July 1889.)

VI.—COMPENSATION FOR LOSS OF PROPERTY CAUSED BY ACCIDENT.

1. A public officer is not entitled to compensation for loss of property caused by an accident of such a kind as the foundering of a ship merely because such accident may have happened to him while he was employed in the service of the State. Government cannot guarantee its officers against every loss which they may suffer while in its service, and compensation should not be given to public officers for accidental losses of their property. (G. I., F. & C., No. 390, dated 4th May 1880; *vide* G. R. No. 1784, dated 28th *idem*.)

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VII.— CONNECTION WITH AND WRITING TO THE PRESS.

1. It is obviously most unbecoming that a public officer should discuss in the public press questions intimately connected with the department to which he belongs, and with the official duties he is called on to perform. Government see no objection to any public servant writing to the papers on matters not coming under his cognizance officially. But if public servants find it inconsistent with their sense of duty as Justices of the Peace to refrain from writing on matters connected with their official duties, it is proper that they should resign either one office or the other, as it is obviously detrimental to official discipline to have such matters discussed by subordinate officers, except through the proper channel. (G. R. No. 3950, dated 15th November 1867.)

2. All heads of offices should make the following Resolution in the General Department, No. 3193, dated 4th September 1884, as widely known among their subordinates as possible:—

No. 3193.

GENERAL DEPARTMENT.

Bombay Castle, 4th September 1884.

Despatch from Her Majesty's Secretary of State for India, No. 14, Public (Records), dated 19th June 1884—Forwarding copy of a Treasury Minute, dated 13th March 1884, containing rules regarding the "premature publication of official documents," and requesting that similar rules may be adopted by the various departments of this Government.

Letter from the Secretary to the Government of India, Home Department (Public), No. 30-1268, dated 16th August 1884:—

"The Secretary of State has forwarded to the Government of India a copy of a Treasury Minute, dated the 13th March 1884, respecting the 'premature publication of official documents,' with the request that similar rules may be adopted in this country.

"2. The minute in question draws attention to previous orders prohibiting the unauthorized communication to the public press of information derived from official sources, and points out that the communications so prohibited are not confined to matter still under discussion, but include also the unauthorized disclosure of matter finally decided on, but as to which the manner and the time of publication may be not less important than the matter itself.

"3. The standing orders of the Government of India upon the subject are contained in the Notification and Resolution reproduced in the appendix. The Governor General in Council desires that these orders may, in future, be held subject to the further restrictions explained in paragraph 2 above."

APPENDIX.

General Order, Foreign Department, dated the 15th March 1847.

The Governor General deems it advisable to republish for general information the Notification issued on the 30th August 1843, in which the principle is laid down that it is contrary to the duty of every officer, Civil or Military, to make public, or to communicate to individuals, without the previous sanction of Government, any documents, papers, or information of which he may have become possessed in his official capacity.

Fort William, Foreign Department, the 30th August 1843.

NOTIFICATION.—Some misconception appearing to exist with respect to the power which officers of both services have over the documents and papers which come into their possession officially, the Governor General in Council deems it expedient to notify that such documents and papers are in no case to be made public, or communicated to individuals, without the previous consent of the Government to which alone they belong.

The officer in possession of such documents and papers can only legitimately use them for the furtherance of the Public Service in the discharge of his official duty; and it is to be understood that the same rule which applies to documents and papers applies to information of which officers may become possessed officially.

By order, &c.

may have become possessed in his official capacity.

The practice of making use of official information in carrying on personal controversies is a course highly prejudicial to the public interests, and is not only at variance with the rules by which due discipline and obedience to superior authority can be adequately maintained, but is a positive breach of faith, inasmuch as no functionary has a right to reveal, without due authority from his official superiors, or the Home authorities, any fact or circumstance which may come to his knowledge in the performance of his duty, or to correspond with any one upon the instructions he may have received for his special guidance.

The Governor General is persuaded that every Officer, Civil and Military, will henceforth conform to this rule of the service under the conviction that, if in the transaction of his official duties his public conduct be impugned, he is at liberty to seek redress through the usual official channel by an appeal to the Government he serves, and that the Government so appealed to will afford him every opportunity of vindicating his character.

Extract from the Proceedings of the Government of India in the Home Department, (Public), No. 19-1134, under date Simla, the 8th July 1875.

RESOLUTION.—Questions having recently arisen as to the extent to which officers in the service of Government are permitted to connect themselves with the Press, the Governor General in Council thinks it desirable that the existing orders on the subject should be clearly understood:—

I.—No officer in the service of Government is permitted, without the previous sanction in writing of the Government under which he immediately serves, to become the proprietor, either in whole or in part, of any newspaper or periodical publication, or to edit or manage any such newspaper or publication. Such sanction will only be given in the case of newspapers or publications mainly devoted to the discussion of topics not of a political character, such, for instance, as art, science or literature. The sanction will be liable to be withdrawn at the discretion of the Government.

II.—Officers in the service of Government are not prohibited from contributing to the public press; but their position makes it incumbent upon them to confine themselves within the limits of temperate and reasonable discussion, and they are prohibited from

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making public, without the previous sanction of Government, any documents, papers, or information of which they may become possessed in their official capacity. These rules have been hitherto in most cases honourably observed. In case of a departure from them, or if the Government should consider the connection of any officer with the Press to be contrary to the public interests, his liberty to contribute will be withdrawn.

III.—The Government of India will decide, in case of doubt, whether any engagements of officers with the Press are consistent with the discharge of their duties to the Government.

IV.—Nothing in this Resolution is intended to relax the provisions of any regulations on this subject which now apply to the Army.

ORDER.—Ordered, that this Resolution be published in the *Gazette of India* and circulated to Local Governments and Administrations for information and guidance.

Extract from the Proceedings of the Government of India in the Home Department, (Public), No. 1 C. H., under date Camp Lahore, the 16th December 1878.

RESOLUTION.—His Excellency the Viceroy and Governor General desires to remind all officers of the Government that information received by them in their official capacity, whether from official sources or otherwise, which is not from its nature obviously intended to be made public, cannot be treated as if it were at their personal disposal.

The Governor General does not think it necessary to issue any general order entirely prohibiting the disclosure, without special authority, of any information received officially. In such matters much must necessarily be left to the discretion and intelligence of officers holding places of trust, and in charge of duties more or less important. But His Excellency would impress upon all officers the serious responsibility involved in the exercise of this discretion. Whenever there is any room for doubt as to the right course to pursue, the orders of superior authority should be obtained before information regarding the public affairs is communicated to any one not officially entitled to receive it.

His Excellency the Viceroy and Governor General has reason to believe that sufficient attention has not upon all occasions been given to the principles which should guide the conduct of public officers in these matters, and which are especially applicable to the present time, when much important business is passing through the public offices. And His Excellency trusts that these principles may in future be clearly apprehended and observed.

ORDER.—Ordered, that a copy of this Resolution be circulated to all Departments of the Government of India and to Local Governments and Administrations for information and guidance.

Letter from the Government of India, Home Department, Public, No. 1317, dated 20th August 1884—Inviting, in reply to the letter from this Government No. 2588, dated 23rd July 1884, regarding the premature publication of official documents, attention to the orders on the subject contained in the Circular letter from the Home Department, No. 30-1268, dated 16th August 1884.

RESOLUTION.—Copies of the Circular letter from the Government of India and of the appendix should be forwarded to all Departments of the Secretariat, and to all Heads of Offices under the Revenue, Financial and General Depart-

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ments for information and guidance, with reference to
 • Published at page 763 of Part Government Notification,*
 I of the *Bombay Government* dated 20th July 1875, and
Gazette, dated 29th July 1875. Government Resolution No.
 155, dated 22nd January 1879.

(G. R., F. D., No. 3419, dated 10th October 1890.)

VIII.—COURTESY TOWARDS NATIVE STATES.

1. Native Governments, not understanding the principles of British Administration, may frequently prefer requests with which British authorities may be unable to comply, but it is the duty of such officers to express their inability to meet the views of the Native Government in terms of the most studious courtesy. This is a plain rule, which ought to be level to every capacity, and His Excellency in Council will not fail to manifest his displeasure towards any officer who shall, by violating it, evince an ignorance of the rudiments of his duty. (G. R., P. D., No. 397, dated 6th February 1863; *vide* G. M. No. 404, dated 10th *idem*.)

IX.—FAMILY CLIQUES.

1. Practical experience proves the rule forbidding the employment of a large number of members of the same family in the offices of any one Collectorate to be a judicious and prudent one. (G. R. No. 393, dated 5th February 1864.)

2. It is not desirable that a large number of the relations of a native officer should be employed in a district in which that officer is the Collector's *chitnis*. (G. R. No. 3347, dated 29th June 1880.)

3. The Commissioners should break up family cliques in the same district, and in districts where there is a preponderance of either Brahmins or Prabhus or Wánias, other castes should be introduced. As a rule, the first *Kárkún* and *Mámlatdár* should not be of the same caste, and relations should not serve in the same *kacheri*. (G. R. No. 1870, dated 30th March 1881.)

4. It appears that owing to the numerical preponderance of Kshatris in the Broach District, the employment of a large number of this caste in the public service is inevitable. The Commissioner should see from time to time that the element of any one community or caste is not allowed to preponderate unduly in the Land Revenue Department in any district within his charge. (G. R. No. 8880, dated 23rd November 1889.)

X.—GRIEVANCES.

1. Whatever grievance a servant of Government may consider himself to be labouring under, the ventilation of such grievance in an insubordinate manner will not be tolerated. (G. R. No. 5747, dated 21st August 1891.)

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XI.—MANAGEMENT OF COMPANIES.

1. In the despatch of 28th September 1880 the Secretary of State for India was informed that, in the belief that the rule forbidding public officers to act as Directors of a Company does not affect the power of Government to appoint a public servant as a Director to watch the public interests, the Government of India had sanctioned the appointment of the Commissioners of Kumáon and Rohilkhand to act as Government Directors of the Bereilly-Ranibágh Light Railway. It was added that the fact of the officers above named being shareholders need not, in the opinion of the Government of India, prevent their appointment to be Government Directors, inasmuch as it seemed improbable that the interests of the Government would conflict with those of the shareholders.

The Secretary of State in reply remarked :—

“It may, as you observe, be improbable that the interests of the Government should conflict with those of the shareholders. The interest of both may generally be identical; but nevertheless, as a matter of principle, and without any personal reference or consideration, I concur in the opinions which have been expressed by my predecessors on the subject and I think it best that, if it is considered advisable for the Commissioners of Kumáon and Rohilkhand to continue as Government Directors, they should divest themselves of all personal interest in the railway.”

The above decision must be treated as a general ruling bearing on the subject, and the Governor General in Council accordingly directs that it be circulated to Local Governments and Administrations for information and future guidance.

(G. I., H., R. & A., No. 12-365-831, dated 7th March 1881; *vide* G. R. No. 1739 dated 25th idem.)

XII.—IMPRESSMENT OF CARTS AND LABOUR.

1. The pressing of oilmen's bullocks for carts is not to be allowed. (G. R. No. 3272, 9th June 1873.)

2. The practice of providing carts by impressment, through the agency of the Revenue and Police officials, for the conveyance from Mahábaleshvar of the baggage of persons visiting that hill station on their own affairs and for their own pleasure, should be discontinued.

This order is not applicable in the case of Government officers who have proceeded to Mahábaleshvar on public duty and who may experience difficulty from causes beyond their own control in the way of obtaining carts for the return journey without the assistance of the local authorities. (G. L. No. 4956, dated 18th September 1880.)

3. When carts are required by Commissariat officers they should be procured in a regular and

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legal manner, and if they cannot be obtained in the open market, the Commissariat officers should apply for assistance to the Collectors and not to subordinate Revenue officials. (G. R. No. 4086, dated 14th July 1881, and G. R., M. D., No. 3761, dated 21st idem.)

4. The pressing of cultivators' carts is liable to great abuse. It gives the Police and others the means of oppression and extortion. It throws upon certain of the community a tax and a service which they are not legally bound to render any more than any officer of Government or private gentleman, and nothing but the public exigency, strictly interpreted, can justify resort to such requisitions.

Officers will incur the serious and exemplary displeasure of Government if they act in violation of the orders of Government contained in their letter No. 4956, dated the 18th September 1880. (G. L. No. 3299, dated 8th June 1881.)

5. The orders issued in Government letter No. 4956, dated 18th September 1880, with reference to Mahábaleshvar should be maintained; but with regard to the requirements of public officers engaged in the administration of the country elsewhere the following regulations shall be observed as an executive order of Government:—

(a) That the rate of cart hired by him be fixed by order of the Commissioners of Divisions per mile, as kos vary greatly, that there be a minimum charge for engaging a cart at all, and a minimum rate for a cart kept a whole day.

(b) That no cart be carried beyond 20 miles, or thereabouts, from the place of hiring.

(c) That a list of all carts in a village be kept by the Pátel, and a list of the number of carts in each village by the Mámáldár.

(d) That requisitions by public officers for carts be made on the Pátel, or where a large number are needed (as when troops are marching,) on the Mámáldárs, and be met in strict rotation of individuals and of villages.

(e) That no person's cart be taken in a village other than his own unless he offers it for hire.

(f) That no cart in use on any public road be taken for the use of public officers' travelling.

2. The minimum hire should be 1 rupee if a cart is used for any distance, however short.

3. Batta for detention should be paid at the following rates:—if a cart is detained unused more than half a day—1 rupee; if a cart is detained unused half a day or less, and then dismissed—8 annas.

4. Government also desire that a record shall be kept by every officer using carts thus obtained, in which the number of carts used, the distance they travel and the sum certified by him to have been paid to each shall be stated,

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5. Officers below the rank of Assistant or Deputy Collector, Assistant Superintendent of Survey or Executive Engineer, should be furnished with a written order from their official superiors for obtaining transport by requisition.

6. These rules are issued to regulate the requisition (Rule *d*) by public officers for carts on Pátels and Mámlatdárs. They do not preclude officers from obtaining carts by free contract, where that is feasible and convenient.

7. His Excellency in Council will rely upon the Commissioners to see that these regulations are strictly enforced.

(G. Rs. Nos. 5521, dated 23rd September 1881, 6524, dated 2nd November 1881, and 6633, dated 8th idem.)

6. Circumstances occasionally occur in the districts, where in order to carry out efficiently the requirements of the public service, it is necessary to procure pressed labour. But it is distinctly to be understood that labour is not to be pressed when free labour is available; and that no officer under the rank of a Mámlatdár is authorized to press labourers or coolies. When any labourers are pressed, the officer having recourse to the measure is to keep a register showing the numbers of coolies pressed, the duties on which they were engaged, the time during which they were detained, and the rates paid to them. These rates should be as follows in the different divisions:—

NORTHERN DIVISION.

For Gujarát	... 6 pies per kos of 1½ miles.
For Konkan	... 1 anna per kos of 2 miles.

Daily rates 4 annas per day or 2 annas per half a day (that is, for not more than 6 hours) for all districts, except in parts of the Sháhápur Táluka and in the Váda Táluka of Thána, for which the rate should be 2 annas a day.

The minimum rate of payment to a cooly should, in all cases, be 2 annas.

CENTRAL DIVISION.

By distance—

			Rs.	a.	p.
Coolies per mile	... ..	...	0	1	0
Minimum rate	... ..	...	0	2	0

By time—

At Sadar Station per day	... ..	...	0	4	0
Elsewhere	... ..	...	0	3	0
Minimum rate	... ..	...	0	2	0
Detention at the same rate as above for time.					

SOUTHERN DIVISION.

For begáris carrying head-loads.

			Rs.	a.	p.
For 5 miles and under	... ..	...	0	2	6
For every additional mile	... ..	...	0	0	6
For every mile of return journey when the distance is more than 3 and less than 9 miles	0	0	3

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For all the districts, except Kánara, for doli, palki or machel bearers.

	Rs.	a.	p.
For a stage of 5 miles and under ...	0	2	6
For a stage of 6 to 10 miles ...	0	6	0
For a stage of every additional mile .	0	0	6

The minimum hire by distance should not be less than 2½ annas, and that by the day not less than 4 annas.

If the bearers or begáris be detained less than half a day, they should be paid batta at the rate of 2 annas per head, and if detained for more than half a day, 3 annas.

If the men have to be obtained from another village, they should be given batta at the rate of 4 annas a day for coming to the place where they are wanted, and 4 annas a day for every day they may be kept waiting.

FOR KA'NARA ONLY.

Statement of routes for Palkis in Kánara District.

No. of stages.	Route.	Names of Stations.	No. of miles.	No. of hamáls.	Rate of each hamál.	REMARKS.
1	Kárwár to Yellápur.	Kárwár to Amdalli ...	10	8	6 annas.	2 annas batta for return.
2		Amdalli to Baleguli...	8	8	6 "	
3		Baleguli to Agsur, including ghat	8	8	6 "	
4		Agsur to Sanksal ...	10	8	6 "	
5		Sanksal to Arbyle ...	12	8	6 "	
6		Arbyle to Yellápur ...	12	8	6 "	

N. B.—This rate of batta depends entirely on the officer who indents for a dák keeping time exactly. For each day the bearers are made to wait, batta at the rate of 2 annas a day per man will have to be paid.

No. of stages.	Route.	Names of Stations.	No. of miles.	No. of hamáls.	Rate of each hamál.	REMARKS.
1	Kárwár to Honávar.	Kárwár to Amdalli ...	10	8	6 annas.	N. B.—Bearers along this route are always available at a few hours' notice
2		Amdalli to Ankola ...	10	8	6 "	
3		Ankola to Gokarn ...	10	8	6 "	
4		Kumta vid Suddry ...	12	8	6 "	
5		Kumta to Honávar ...	12	8	6 "	
6						
1	Kumta to Sirsi.	Kumta to Katgal ...	9	8	6 annas.	2 days batta for return.
2		Devimanighát ...	8	8	6 "	
3		Samp-khand... ..	11	8	6 "	
4		Sirsi	10	8	6 "	

N. B.—To lay a dák two days' notice must be given.

No. of stages.	Route.	Names of Stages.	No. of miles.	No. of hamáls.	Rate of each hamál.	REMARKS.
		Gairsappa to Jog ...	18	12	12 annas.	Batta during stay at Jog 3 annas a day for each man.
		Return journey ...	18	12	12 "	

N. B.—Three days' notice must be given. Twelve bearers are required for each palki. One day's batta must be paid for bearer's journey to Gairsappa with palki and hire of boat Rs. 2-8-0; on return also the same boat hire and one day's batta at two annas a man.

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General Rules.

1. Requisitions by public officers for begáris or bearers should be made on the Police Pátel of the village, or, where a large number is needed, on the Mámlatdár.

2. No begáris or bearers should be taken beyond 12 miles or thereabouts from the place of hiring.

3. The begáris or bearers should be paid at once the fixed hire on reaching the destination and discharged.

SIND.

District.	Description.	Time-rate.	Distance-rate.
		A. p.	A. p.
Karachi ...	Labourer or carrying-cooly.	Full day over 5 hours ... 5 0 5 hours ... 3 0 Less than 5 hours ... 2 6	Per mile ... 0 6 Minimum charge ... 2 6
Hyderabad ...	Ditto. Kásid or running-messenger.	Ditto. Double the above	Ditto. Double the above.
		A. p.	A. p.
Shikárpur ... Thar and Párkar. Upper Sind Frontier.	Labourer or carrying-cooly.	Full day ... 5 0 5 hours ... 3 0 Less than 5 hours ... 2 6	Per mile ... 0 6 Minimum charge ... 2 6

The above are the rates during the day time. If night work is required the rates shall be either half as much again, or double, according to circumstances.

Any time over 5 hours is to be reckoned as a full day.

4. The Governor in Council expects that the Commissioners will see that payments, according to the rates sanctioned, are made in their respective Divisions, and that proper remuneration on the scale approved is punctually given to all persons required to render service as coolies to Government officers when travelling on duty. The Commissioners should take the requisite measure to ensure due local publicity being given to these orders.

5. These orders do not affect Government Resolution No. 5521, dated 23rd September 1881, relative to pressing carts.

(G. R. No. 6126, dated 18th August 1883.)

XIII.—INSOLVENCY.

1. The orders of the Government of India

* "An uncovenanted servant taking the benefit of the Insolvent Act is to be dismissed the service unless he can show that his insolvency was produced from causes over which he had no control (vide Digest of Service Rules, paragraph 879).

*No. 100, dated 12th January 1856, are to be considered the standing orders which should guide the treatment of the cases of insolvency of Government servants, each case being

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reported to Government for orders, with a full statement of the circumstances that have led to the insolvent's embarrassments, and the opinion of the head of the office or department whether any relaxation of the rule should be granted. (G. R., F. D., No. 1323, dated 13th March 1877.)

XIV.—INSPECTION OF OFFICES AT ADEN.

1. Heads of Departments are not allowed to inspect departmental offices at Aden on their way to Europe or to make over charge of their offices at that station. (G. I., F. D., Nos. 2822, dated 30th November 1876, and 584, dated 8th February 1879; *vide* G. Rs., F. D., Nos. 5112, dated 8th December 1876, and 849, dated 11th March 1879.)

XV.—MILITARY PENSIONERS.

1. With Public Works Department Nos. 2829-G and 130-G., dated 26th October 1888 and 16th January 1882, respectively, the Government of India in the Public Works Department forwarded for consideration and report of all Local Governments and Administrations having railways under their control, and to the Consulting Engineers, Calcutta, Central Division and Lucknow, a note by Lieutenant-Colonel Leigh-Hunt, Superintendent of Family Payments and Pensions, Madras, on the subject of employment of military pensioners in civil capacities. With some exceptions the authorities consulted were generally in favour of the employment of military pensioners in the posts of watchmen, porters, peons, gatekeepers, burkundazes, &c.

It was also clear from some of the replies received that similar posts in the Buildings and Roads and Irrigation Branches of the Public Works Department could be properly filled by military pensioners.

The principal difficulty to be overcome is to place within the reach of those who make such appointments descriptive lists of the pensioners seeking for employment.

It was suggested at a Divisional conference on the subject, held at Delhi under the presidency of Colonel Grey, the Commissioner, that the best way of securing the object in view would be for Commandants of regiments to send to Commissioners of Divisions the particulars regarding retired soldiers residing in their divisions. This proposal was approved by the Punjab Government, and by the Government of India; and it was further proposed that registers of candidates for employment thus compiled should be circulated to district officers and heads of departments, in order to enable them to apply for the services of any men they might require.

The several Local Governments and Administrations were also addressed by the Government of India* with the view of a similar procedure being adopted by them in the territories under their control.

* Military Department, No. 924-B., dated the 1st April 1889.

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Endeavours should be made systematically to employ military pensioners for such posts in all branches of the Public Works Department, and so far as possible on the Guaranteed Railways, and Commissioners of Divisions should be applied to for men suitable for such posts.

(G. I., P. W. D., No. 1895-G., dated 2nd July 1889; *vide* G. R. No. 6314, dated 27th August 1889.)

XVI.—OFFICERS CAUSING PUBLIC SCANDAL.

1. Whenever any officer appointed by Government causes a public scandal by inebriety or otherwise, his case should be reported for the orders of Government, and not disposed of departmentally. (G. C. No. 3379, dated 5th September 1868.)

XVII.—PATRONAGE FOR LITERARY AND OTHER WORKS.

1. Servants of the Government in India soliciting the patronage of the Secretary of State for works published by them in India should prefer their requests through the Government under which they are serving. (S. of S., No. 12, dated 19th December 1878; *vide* G. R., E. D., No. 166, dated 11th February 1879, G. M., No. 802, dated 14th idem, and G. R., F. D., No. 543, dated 14th idem.)

XVIII.—PEONS.

1. The Government of India have ruled that, to prevent misconception, the word "Sepoy" should be confined to Sepoys of the Native Army, and that other servants of corresponding rank should be designated "Peons" and not Sepoys. (G. C., J. D., No. 1367, dated 22nd May 1863; *vide* G. M. No. 1774, dated 29th idem.)

XIX.—PREPARATION OF PETITIONS.

1. An instance having lately come under the notice of Government of a clerk in one of the public offices being concerned in the preparation of petitions for a private individual, the Governor draws general attention to the standing orders noted in the margin prohibiting the officers of Government having anything to do in such matters. (G. N. dated 4th January 1865.)

Government Notification,
dated 23rd September 1843.
Government Circular No.
2541, dated 20th June 1851.

draws general attention to the standing orders noted in the margin prohibiting the officers of Government having any-

XX.—PRESENTS.

1. An application being made to the Government of India that a certain Mámlatdár might be allowed to retain a pair of shawls and a turban which had been presented to him by the Maháráni of Indore in consideration of the services rendered by him to Her Highness when on a visit to his taluka station, it was ruled by them that, having regard to the fact that Native Chiefs were very numerous in Bombay and were frequently moving from

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one place to another, and that it was often visited by Chiefs from other parts of India, it would not be expedient to establish a precedent that would probably have a bad effect, not only upon Mámlatdárs, but also upon their subordinates, and would lead them to expect the grant of rewards for acts of civility. (G. L., R., A. & C., No. 1101, dated 18th December 1876; *vide* G. R. No. 7610, dated 27th *idem*.)

XXI.—PURCHASES OF PROPERTY.

* G. R.
No. 2958,
dated 17th
June 1854,
p. 347, Circular Orders of
the Revenue
Department.

1. The orders* of Government prohibiting Huzúr and District Kárkúns from purchasing or taking up lands within their respective ranges should not be held applicable to Huzúr Treasurers. They may, if they choose, occupy Government land, but they should be clearly made to understand that should they avail themselves of the privilege, the fact of their being in possession of land will debar them from promotion to any post, the incumbent of which is prohibited from holding lands as being detrimental to the public interests. (G. R. No. 2112, dated 3rd May 1861.)

2. Public officers when making purchases of property on behalf of Government should exercise great caution. Personal responsibility will be enforced in all cases in which there has been a want of reasonable care in such transactions. (G. R., E. D., No. 16, dated 8th January 1873; *vide* G. M. No. 255, dated 15th *idem*.)

XXII.—RAILWAY TRAVELLING.

1. In certain cases which have come before Government, certain of the Railway servants, instead of discountenancing the proceedings of gentlemen who desire to induce their fellow passengers not to occupy first class compartments, have actually undertaken to convey these unreasonable requests. Where no first class compartment is vacant and a second class compartment is, first class passengers desiring solitude should be offered the compartment which is vacant, not the one to which the holder of a first class ticket is entitled. (G. R. No. 6276, dated 4th August 1885.)

XXIII.—READING OF PREVIOUS RECORDS.

1. It is the duty of an officer on joining an appointment to read up the previous records and ascertain what orders have been passed by Government for the guidance of the holder of the appointment. (G. R. No. 7305, dated 28th December 1875.)

XXIV.—REWARDS.

1. Whenever it is proposed to reward a Government officer, the nature of the case, and the particulars of conduct, should be specially reported, so that it may be seen whether by extra exertion beyond what is required in the ordinary discharge of

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duty he is a worthy subject for the exercise of extraordinary favour or reward. (G. R. No. 4024, dated 15th October 1864.)

2. A check should be imposed on the habit now becoming general in Bombay of applying for rewards for Police officers whenever they perform their duties successfully. The detection of crime and the bringing to justice of criminals is the most important duty for the discharge of which Police officers are employed, and for performing which they are paid. To pay them rewards for simply doing their duty is a mischievous and demoralising anomaly.

(G. R. No. 6100, dated 14th November 1879.)

3. While rewards may reasonably be given to those who actually assist in salvage operations, the Governor General in Council cannot consider that such service as that of assisting in preparing a lighter for sea and in discharging her cargo on return to port is of such a nature as to warrant the grant of any reward. Service of this nature must be regarded as labour performed in the ordinary course of the duties for which the staff is employed by Government, and remuneration cannot be sanctioned for it. (G. L., F. & C., No. 4232, dated 30th October 1884; *vide* G. R. No. 3777, dated 20th November 1884.)

XXV.—SECURITIES.

1. Security should not be taken from Pátels or Kulkarnis who hold office hereditarily, or who are members of the watan. (G. R. No. 2036, dated 20th May 1869.)

2. The Treasurer and Head Accountant at Aden should be required to furnish security to the extent of Rs. 40,000. (G. R., F. D., No. 1615, dated 2nd May 1882.)

3. The clerks or kárkúns in the Huzúr Treasurer's offices who are entrusted with work in connection with stamps should be required to furnish securities to the extent shown below:—

Northern Division.

Rs. 3,000 in Ahmedabad from the head stamp kárkún, Rs. 1,000 from the second, and Rs. 500 from the third kárkún.

Rs. 2,000 in all other districts, only one kárkún being employed in Kaira, Surat, Broach and Thána.

Central Division.

Rs. 2,000 from the chief and Rs. 1,000 from the lower paid kárkún, where two are employed. In the case of the stamp head kárkún at Poona Rs. 25,000 (*vide* G. R. No. 3087, dated 1st July 1899.)

Southern Division.

Rs. 2,000 in Bijápur, Belgaum, and Dhárwár; Rs. 1,000 in Kánara, Kolába and Ratnágiri.

(G. Rs., F. D., Nos. 519, dated 25th February, 736, dated 15th March, and 1266, dated 7th May 1886.)

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4. Tapadárs in receipt of salaries of Rs. 20 per mensem or less should furnish security to the extent of Rs. 300 each, and those drawing pay in excess of Rs. 20 monthly should furnish security to the extent of Rs. 500 each. (G. R., F. D., No. 3871, dated 17th December 1888.)

5. There is no objection to money lodged by a public servant in the Government Savings Bank as a security deposit for the due discharge of his duty being refunded to him on his leaving the service, or on his being appointed to an office other than that in connection with which the deposit was made, or in case of death to his legal heirs in accordance with rule. (G. R. No. 2728, dated 16th May 1881.)

6. Subject to the orders of the Local Government, the Revenue authorities are responsible for seeing that adequate security is taken from any of their subordinates (including all officers employed in District and Sub-Treasuries) who may be entrusted with the custody of public money.

Without the special sanction of the Local Government in respect of any particular case or class or cases, the only form of security to be taken from Treasurers or other officers of Government who are entrusted with the charge of public money should consist of promissory notes (including stock notes) of the Government of India. In the Bombay Presidency, however, it is left optional with subordinate Revenue officers who are entrusted with the charge of public money either to deposit Government promissory notes, or to execute a bond in the form contained in Schedule B of the Land Revenue Code, 1879.

(G. I., F. & C., Nos. 3454, dated 2nd September 1882, and 2232, dated 25th July 1883; *vide* G. Rs., F. D., Nos. 3739, dated 2nd October 1882, and 2031, dated 17th August 1883.)

7. The Political Resident, Aden, is authorized to accept personal securities from the treasurer and shroff attached to the treasury at Aden, if no suitable candidates willing to deposit Government paper present themselves. (G. R., F. D., No. 52, dated 6th January 1883.)

8. The following addition should be made at the foot of the form of the security bond prescribed in Schedule B of the Land Revenue Code :—

“The above bond will be retained by Government for one year after the said
has vacated his appointment.”

(G. R. No. 6920, dated 28th August 1884.)

9. Section 23 of the Bombay Land Revenue Code provides for security being furnished by Revenue officers in the form prescribed in Schedule B of the Act, and No. 2 of the Rules under Section 214 fixes the amount for which they have to furnish

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security ; but whereas the form of the security bond given in Schedule B provides for binding the principal in a specified sum, it omits to do so in the case of his sureties and binds them conformably to Section 27 of the Code in "such sum as shall be deemed sufficient to cover *any* loss or damage which the Government may *actually sustain* by the default of the principal." Now, it is possible that the actual loss sustained by Government by the default of the principal may, in certain cases, exceed the amount for which he is bound down by security bond, and while under the terms of his bond he will not be liable for any sum in excess of that specified in the bond, the sureties can be called upon to make good the loss or damage, whatever its amount may be. Thus, although the liabilities of the principal are restricted, those of the sureties are unlimited. It seems rather anomalous to bind the sureties in a larger sum than the principal.

The form given in the schedule referred to should be used until it is amended by a legislative enactment ; but in the meantime it should be made known that it is not the intention of Government to make securities liable for a larger amount than their principal.

(G. Rs., R. D., Nos. 8725, dated 11th December 1886 and 843, dated 4th February 1887.)

10. When security is given according to Schedule B of the Land Revenue Code, the Treasurer binds himself in a certain sum (mentioned in No. 2 of the rules under Land Revenue Code, Section 214), which varies according to the Treasuries. He also gives sureties. These do not bind themselves in any specific sum, but agree to make good *all* losses caused to Government by their principal's default. What precaution should be taken to ensure the ability of a surety to fulfil, should occasion arise, the obligation thus undertaken by him is an executive, not a legal question. It appears to Government that, inasmuch as they have fixed the amounts of the securities to be given by the various Treasurers in consideration of the responsibilities undertaken at their respective treasuries, those amounts may be held to sufficiently accurately represent the sums which the principals might possibly have to make good, and which, therefore, *each* surety might possibly have to make good, should the principal and the other surety fail to do so. Before accepting a man as surety for a Treasurer, therefore, he should be ascertained to be worth the amount fixed for the Treasury in question in No. 2 of the rules under Land Revenue Code, Section 214. It is not sufficient to ascertain that two sureties combined are worth that sum, for the very object of requiring two sureties instead of one is to ensure that even if the principal and one surety are not in a position to pay anything, the other surety may be called upon, and may be able, to pay the full amount.

When Government paper is deposited, it is necessary also, under Chapter 17, Rule 4, Civil Account Code, that a bond should be given in the form in Schedule C, Civil Account Code, Volume 1, by the principal and his sureties. As by this bond they are bound severally as well as jointly, it is necessary to ascertain that *each* surety is worth the amount of the bond. It has not apparently been expressly decided hitherto what the amount of this bond should be, but it may be considered to be the amount fixed as the security to be given by each Treasurer under No. 2 of the Land Revenue Code rules, Section 214.

It is observed that in both cases the principal's personal bond is for the same amount, and in both cases also, two sureties, each worth that amount, are provided. The obligations are therefore practically the same in the two cases, except that in the second case (mentioned in paragraph 3 above) the Treasurer has the additional obligation of depositing Rs. 40,000 worth of Government paper. He gets no advantage, but an additional and serious disadvantage by adopting the second course. Consequently it is highly improbable that any Treasurer, with a knowledge of the rules, would adopt the second course, and the rule allowing him an option must be superfluous. It seems to the Governor in Council simpler, and therefore of more practical use, to require surety in all cases according to Schedule B, Land Revenue Code.

(G. R., F. D., No. 3687, dated 7th November 1890.)

11. The use of the form of security bond contained in Schedule B to the Land Revenue Code in all Departments has been authorized by Government Resolution No. 7522, Revenue Department, dated 22nd October 1882,* except for cases in which Government paper is deposited. As regards Land Revenue officers, the use of that form is prescribed by Section 28 of the Land Revenue Code, and the form may not be varied by the Executive Government. But there is no *legal* necessity for the use of this particular form in other Departments, and Government may, if it is thought fit, modify it for such Departments.

The law as to a surety's liability is contained in Section 128 of the Indian Contract Act (IX of) 1872. 'The surety's liability is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.' The Revenue Code form does "otherwise provide," because the surety thereby makes himself liable for any loss or damage which the Government may sustain by the principal's default. But as the amount prescribed for

* This Resolution directed that in cases in which Government paper was deposited under Section 23 of the Land Revenue Code, a bond should be executed in the form circulated with G. R., F. D., No. 3739, dated 2nd October 1882, but that the form prescribed by Section 23 of the Code must continue to be used in other cases.

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the principal is probably calculated to cover any loss or damage which it would be in his power to cause, the surety would seem to be practically liable only for as much as his principal.

Whether this be so or not, the form serves the interests of Government better as it stands than it would if the surety's liability were strictly limited to the same extent as the principal's and it seems inadvisable that it should be altered. If one person is unwilling to sign the bond as it is, the officer who has to give security can be called upon to produce another fit person who is prepared to sign it.

(L. R. No. 1157, dated 6th August 1890; *vide* G. R. No. 3645, dated 25th April 1892.)

12. As to the question whether an old security-bond which is superseded by a new one cannot by some means be kept in force, the first paragraph of Section 29 and Section 30 of the Land Revenue Code contains the law on this subject. A security-bond continues in force *until it is cancelled* and a surety who withdraws from his suretyship continues liable, notwithstanding his withdrawal, for any defalcation of his principal occurring up to 60 days after his giving notice of his intention to withdraw. Therefore, a security-bond should not be destroyed until so long after the principal has ceased to occupy an office in which he has to furnish security that there is no probability of its being of any use. If a fresh bond is for any reason taken, the old one should still be preserved as security against defalcations which may have occurred before the date of the new one. (G. R., F. D., No. 3449, dated 14th October 1890.)

13. The following rules have the approval of Government and should be adopted by the Conservators and Deputy Conservators in charge of circles and communicated by them to all whom they affect:—

In accordance with the provisions of Section 2 of Act XII of 1850, the following rules have, with the approval of His Excellency the Governor in Council, been made by the * * * requiring the amount and kind of securities and the sureties to be given by every person appointed by the said * * * to any office in which such person is to be entrusted with the receipt, custody or control of any such moneys as are specified in Section 3 of the said Act:—

1. Every Forest officer below the rank of Extra Assistant Conservator, whether appointed permanently or temporarily, whose duty requires that he should be entrusted with the charge of Government money and *drawing pay* at the rate of Rs. 10* or over, shall furnish security with one or more sureties as the Principal Forest Officer of the Circle may direct for a sum which shall in no case be less—

(a) than the aggregate of the pay payable to such subordinate for 12 months' service, or,

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(b) than the amount of forest revenue or funds which such subordinate is, by special authority from the Principal Forest Officer of the Circle permitted to hold at any one time in his custody.

2. Every such Forest Officer shall within 1 month, on obtaining temporary or permanent promotion or on the decease, or withdrawal of his original security, furnish fresh security.

3. The Divisional Forest Officer, with the sanction of the Principal Forest Officer of the Circle, may at any time require any such Forest Officer, as is referred to in Rule 1, to furnish within 1 month a fresh bond in substitution of any bond previously executed by such Forest Officer.

4. The Divisional Forest Officer may, at discretion and without stating his reasons, decline to accept any person as surety.

5. The Principal Forest Officer of the Circle may at any time direct that the security to be furnished under these rules shall be in the form of a deposit of Government Promissory or Currency Notes or Cash.

The following supplementary orders on the subject are passed for the guidance of Forest Officers :—

(1) The Divisional Forest Officer will be held responsible that security is furnished and maintained by every Forest Officer below the rank of Extra Assistant Conservator in his Division, who may be required, under the rules made by the Principal Forest Officer of the Circle under Section 2 of Act XII of 1850, to furnish security; and he shall, in consultation with the Mámlatdár of the táluka in which the surety resides, satisfy himself that the surety offered is, and continues to be, a proper one.

(2) Care must be taken that no person's security is accepted on behalf of a disproportionately large number of Forest Officers below the rank of Extra Assistant Conservator, whether of the same Range, or Department, or not.

(3) In the first week of January a statement (in the form now in force) of the securities furnished by Forest Officers below the rank of Extra Assistant Conservator in their Divisions shall be submitted to the Principal Forest Officer of the Circle by the Divisional Forest Officers.

(4) No Forest Officer shall, in any case, keep in his own custody any item of forest revenue for more than 8 days after its receipt by him, but he shall remit it to the Treasury or to the Range Forest Officer as the general or special departmental orders issued for his guidance may direct.

No Forest Officer shall allow a larger sum of revenue, than the amount of the security which he has furnished, to accumulate or remain in his charge, but he shall remit the money at once to

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the Treasury or to the Range Forest office as the standing orders issued for his guidance may direct.

(5) In no case shall a Forest Officer accept ready-money payment when it can be avoided, but he shall furnish the payer with a chalan, and direct him to pay the money direct to the Treasury and return the chalan signed by the Treasury Officer as a voucher.

(6) The amount of advances to be made to a Forest Officer should never, as a rule, exceed the amount of his security; but should it be found absolutely necessary on any special occasion to supply a Range Forest Officer with funds in excess of the amount for which he has furnished security, save in the case of the advance made for the payment of salaries and allowances of the Range Forest establishments, the fact shall be reported to the Principal Forest Officer of the Circle.

These orders apply to the Province of Sind with the substitution of the following for No. 4 :—

(4) No Range Forest Officer, or Depôt Officer, shall allow more than Rs. 50 of revenue (and no Round Guard shall allow more than Rs. 10) to accumulate in his charge; and in no case shall any subordinate keep any item of revenue received more than 8 days in his own custody, but shall remit it to the Treasury or the Range Forest Office, as the case may require. The collections at *nákás* shall ordinarily be remitted to the Treasury daily.

(G. R. No. 3767, dated 18th May 1895.)

XXVI.—SUBSCRIPTIONS.

1. An officer holding the post of District Deputy Collector issued instructions to the officers subordinate to him directing them to collect subscriptions in their charges for what was termed a Land Improvement Fund, to be named after His Royal Highness Prince Albert Victor of Wales. On representations made, steps were, however, promptly taken by this officer's superiors to prevent any action being adopted on the circulars sent out by him, and the matter was reported to Government for orders.

However excellent may have been the motives which influenced the officer in question, the line of conduct followed was injudicious and the excess of zeal displayed might easily have led to very undesirable results. It is obviously most inexpedient that official agency should be employed for the collection of subscriptions on behalf of any memorial or reception fund, or indeed of any object, without the express previous sanction of Government which would only be accorded, if ever, in very rare and exceptional instances. Contributions in such circumstances would often practically cease to be

voluntary, and grave abuses would be likely to arise.

(G. R. No. 2936, dated 30th April 1890.)

Notes.—This resolution is not intended to apply to the Municipal Commissioner for the City of Bombay personally, his position being recognized as one which frequently entails on him the duty of collecting subscriptions for various charitable and other objects. At the same time it is obviously desirable, in order to prevent misunderstandings, that he should be fully cognizant of the orders of Government against the employment of official agency generally for such purposes, and should refrain from any action which might possibly tend to bring subordinate officials into collision with those orders. (G. L. No. 7377, dated 10th October 1893.)

2. Arrangements having been started in a district for the formation of a society to take over the High School from Government, an appeal for subscriptions was issued by the Committee formed for the purpose. The Collector, who sympathized with the project, allowed the Mámlatdárs to circulate copies of the appeal published by the Committee and asked Government to permit the Government servants of all departments in the District to join the Committees which were being formed for the collection of funds. Government did not grant the permission asked for and doubted the expediency of allowing copies of the appeal to be officially circulated. It was observed that if the influence of the Government servants of all departments was brought to bear in the matter, it was to be feared that contributions not really voluntary would be made. The fact that the object was good and approved by the Collector was almost certain to stimulate such officials to zealous exertions for its furtherance. The co-operation of officials in such movements was calculated to retard rather than foster the growth of true public spirit while the ignorant were apt to view, and the disaffected to represent, the whole proceeding as State taxation in disguise. (G. Rs. Nos. 3894, dated 5th June 1890, and 5109, dated 21st July 1890.)

XXVII.—SUPPLIES.

1. The following Resolution was passed by Government on certain proceedings submitted by the Commissioner, Central Division, relative to the proceedings of the Mámlatdár and certain other Government officials in the Peint Táluka of the Násik District in compelling rayats to supply to them grain at a lower rate than that prevailing in the market:—

“The Commissioner’s proceedings are approved and confirmed, and it should be notified that the dismissed men are not to be re-employed in the service of Government in any capacity. These officers by their own confession used their official position to make the rayats under their charge supply the fruits of their labour at rates far below their market value, and the inequity of this conduct is so obvious that the example of others is no excuse for any official concerned in it. Every person who is convicted of it should be dismissed and the evidence against employés in the Educational, Medical and other Departments should be communicated to their official superiors with this object.

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"2. His Excellency the Governor in Council desires that the utmost publicity should be given to the orders of Government on this case, so that both officials and the public may understand that condign punishment will follow on the discovery of such malpractices."

(G. R. No. 3716, dated 28th June 1881.)

2. Officers when travelling in the districts ought not to leave a camping ground until they have satisfied themselves that all bills have been paid and no cause for subsequent discussion exists. (G. R. No. 7175, dated 28th November 1881.)

3. Public officers should bear in mind that the employment of public servants in making purchases, or in any private matter in which the receipt or expenditure of money is concerned, is most strictly prohibited, and that every breach of this order which is brought to the notice of Government will be severely dealt with.

It is not intended that the prohibition mentioned above should preclude officers from employing public servants to procure for them conveyance or necessary supplies while they are travelling upon duty, though in all such transactions constant vigilance is needed to prevent cheating and extortion.

(G. I., H. D., No. 121, dated 16th January 1873, and No. 895, dated 22nd May 1873; *vide* G. Rs., J. D., Nos. 425, dated 25th January 1873, and 3126, dated 5th June 1873, and G. Ms. Nos. 577, dated 31st January 1873, and No. 3404, dated 14th June 1873.*)

* The following is an extract from an answer given by the Honourable Sir Philip Hutchins to a question asked by the Honourable Raja Udai Partab Singh of Bhinga at the meeting of the Legislative Council of His Excellency the Governor General held on 16th February 1893 in regard to the supply of provisions to Government officers on tour:—

"The attention of the Government of India has not been specially directed to the hardships alleged by the Honourable Member in his question to be suffered by cultivators and village shop-keepers owing to the system of collection by tahsildárs of supplies for Government officers on tour.....The subject is one within the province of the Local Governments to deal with, and the Government of India have no doubt that it has attracted their attention, and that in most, if not in all, provinces orders exist, in the spirit of Section 8 of Bengal Regulation, XI of 1806, requiring 'a just price for the provisions or other articles provided to be secured to the persons entitled thereto,' forbidding requisitions for more articles than are actually required, and also prohibiting the interference of the tahsildár at all where there are regular shops or markets at which the necessary supplies can be readily obtained. I may perhaps add my belief that officers on tour generally make it a rule either to pay for their supplies personally, or at least to satisfy themselves that the price of any supplies which have been procured through the tahsildár has reached the person from whom they have been obtained.

"The Government of India will, however, have great pleasure in circulating the Honourable Member's question and this answer to all Local Governments and Administrations, in order that their attention may be specially drawn to the matter, and that they may consider whether the present arrangements sufficiently provide for the avoidance of hardship to the furnishers of supplies, and, if not, in what way they should be supplemented."

XXVIII.—VOLUNTEERS.

1. From the returns supplied to Government of Europeans and Eurasians employed in different public offices and the proportions of them enrolled as Volunteers it appears that in some offices no attempt has been made by the heads thereof to encourage the Volunteer movement, while in the case of other offices the large proportion of Volunteers justifies a belief that it is in some measure due to the interest shown in the movement by the heads. The Governor in Council considers it unnecessary to dilate at length on the advantages accruing to the country from a full encouragement of the movement, or to refer to the orders that have been received from the Government of India on the subject. Heads of Offices and Departments should in particular be requested to consider whether it may not be possible so to arrange the office hours of their employés as to admit of those who are Volunteers being set free earlier on drill days, and for the purpose of taking part in reviews of troops. (G. R. No. 3018, dated 26th March 1892.)

2. Local Governments and Administrations should give their earnest attention to the subject and endeavour to increase existing Volunteer Reserve Corps and Companies and to raise new corps and companies where none at present exist, and should also impress on the Civil officers and officers commanding Volunteer Corps the necessity for taking a personal interest in the movement as it is one to which the Government of India attach great importance. (G. I., M. D., 541 B., dated 12th February 1890; *vide* G. R., M. D., No. 619, dated 3rd March 1890 and G. R. No. 2059, dated 19th idem.)

3. The mere fact of belonging to the Volunteer force, does not entitle a Government servant to proceed on field service without special permission from the head of his department. The grant of permission to any Volunteer Corps, or members of a corps, to proceed on field service rests with the Government of India, who will consider each application on its own merits and with reference to the circumstances of the time. In the case of Volunteers who are in Government employ and who desire to proceed on field service, it is necessary that the heads of the departments, in which they are employed should be consulted as to whether their services can be spared without inconvenience to the department, and without extra expense being caused to Government, beyond what would be incurred by granting leave or furlough.

Officers Commanding Volunteer Corps should, therefore, before submitting applications from members of their corps who are in Government employ to proceed on active service, ascertain from the heads of the departments to which the Volunteers belong whether their services can be spared,

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and what expense (if any) would be caused by their withdrawal from their civil duties.

(G. I., M. D., No. 2087 B., dated 21st July 1891 ;
vide G. R., M. D., No. 1533, dated 6th August 1891
and G. M. No. 6350, dated 15th September 1891.)

**XXIX.—WORK DONE OR PAMPHLETS PRINTED
AT GOVERNMENT EXPENSE.**

1. It cannot be too distinctly laid down that work done or pamphlets printed at the expense of Government belong exclusively to Government. (G. R. No. 270, dated 14th January 1870.)

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1. (1) Every answer to a petition should contain so much of the points of a case as is necessary to enable the superior officers in case of appeal to form a judgment whether to accept or reject the petition of appeal.

(2) When the order of a subordinate is reversed or modified, the reasons are to be communicated to the subordinate. When the order is confirmed, a simple intimation to that effect will suffice.

(3) The petitioner is also to be informed.

(G. R., F. D., No. 561, dated 27th April 1870.)

2. In suits to which Government is not a party, the Collector of Bombay is not bound, or compellable, to allow the records of his office to be searched by the parties to the suit for the purpose of ascertaining whether these records contain documents which may be useful to them. Where documents are known to exist in those records and can be specifically described, the Collector may be compelled to produce them under a *subpœna duces tecum* unless they are privileged; and in all cases in which production can be so compelled, the Collector should give inspection and copies if asked, charging reasonable fees for the same.

It frequently happens, however, that parties are unable specifically to describe documents, though they may have just reason to believe that such documents exist and are to be found in the Collector's Office. In such cases when the Collector is satisfied that the documents sought would, if produced, be material to the case of the applicant, the Collector should allow his records to be searched, for "it is the anxious desire of Government to further the ends of justice" (see Government Resolutions Nos. 565, dated 3rd February 1846, and 6400, dated 29th August 1850). The records of the Collector frequently contain the only reliable documentary evidence of title to lands in Bombay; and it would be unjust to close them against a man whose title was impeached, simply because he was unable to point out, by date and description, the particular documents he required. Such search, however, should only be granted when the Collector is satisfied that the application is made *bond fide*, and should be conducted by or under the inspection of the Collector's own officers for whose attendance he should make a sufficient charge. Otherwise the records might be tampered with or abstracted, and the object of Government in allowing the search entirely defeated.

In the Government Resolutions quoted above, it is declared to be the policy of Government to allow the production of documents on its records, "which though compiled for the use of Government are nevertheless resorted to as the common evidence of the private rights of the district, or of the mutual and relative rights of Government and individuals,

such as registers, survey maps," &c. Of such documents, the Collector should also allow inspection in his office, on such reasonable terms as he may think fit. Indeed wherever production can be compelled under a *subpœna duces tecum*, the Collector would find it a safe and convenient rule to give preliminary inspection, as the result of such inspection will frequently be to diminish the number of documents required to be produced.

Under Section 77 of the Indian Evidence Act, certified copies may be produced in proof of the contents of public documents, and the Collector's records are public documents under Section 74 of the Act. In many cases a copy is as satisfactory evidence as the original; and in such cases, the Collector might well require parties to dispense with production of the originals in Court and to take certified copies. In some cases, however, there are particularities about the original which cannot be shown on a copy; and in such cases the originals should be produced in Courts.

The Evidence Act I of 1872 contains several important sections with regard to public documents. Section 76 requires that copies of public documents "which any person has a right to inspect" shall be given to that person, on payment of the legal fees therefor. It is nowhere in the Act laid down what public documents any person has a right to inspect, but in Section 123 it is enacted that "no one shall be permitted to give any evidence derived from *unpublished official records* relating to any affairs of State except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit." In Section 124 it is provided that "no public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure," and Section 162, under which a witness summoned to produce a document must, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production, does not empower the Court to inspect the document if it refers to matters of State. The head of the department, and not the Court, is thus made the judge, whether a public document is to be withheld on the ground that it relates to affairs of State. The Collector should, therefore, be careful, before allowing inspection or granting copies of documents from his records, to ascertain that the public interests are not likely to suffer by the disclosure. And in cases in which, though compelled to bring a document into Court, he considers it would be detrimental to the public service to produce it, he should attend personally to state his objection.

(Adv. Gen., No. 57, dated 30th August 1873; *vide* G. R. No. 5190, dated 16th September 1873.)

3. It is to be observed from the foregoing Resolution that it is the wish of Government that

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no needless restrictions should be placed on the right of inspection of public documents. It would not be possible to define precisely what particular class of documents should be allowed to be inspected and copied, but in withholding permission the officer in charge of the records should be guided mainly by the consideration whether or not the public interests would suffer by the disclosure. As a general rule, permission to inspect a copy should not be withheld in all cases not affecting the public interests, in which had the application been made by a Court it could not have been refused. Thus, in addition to the documents referred to in Section* LXXXVII of Act VIII of 1871, parties to a suit should be allowed copies of depositions and other judicial documents which they may desire to produce in evidence. (G. R. No. 5487, dated 3rd October 1873.)†

* Vide Section 90 of the Indian Registration Act III of 1877.

4. If a Civil Court asks for the production in original of a public document, the officer in whose custody such document is, is at liberty to represent to such Court that its production will involve inconvenience (as in the case of a current register) and to offer to send a certified copy if the production of the original is not, in the opinion of the Court, necessary.

A public officer is only bound to furnish a certified copy, unless the original is called for by the Court (Section 76 of Act I of 1872), and the Court shall presume (*i.e.*, in the absence of evidence to the contrary) that such certified copy is genuine (Section 76 of Act I of 1872). But it by no means unfrequently happens that the genuineness of a certified copy is impugned or that the meaning of its contents can only be rightly gathered from a context too voluminous to be conveniently copied, or for other reasons, necessary in original.

In such cases a public officer cannot refuse to produce or cause the production of the original, if so ordered by a Court, unless of course it were protected under Sections 123 or 124, as relating to an affair of State or to communications made in official confidence.

(L. R. No. 87, dated 21st January 1889; *vide* G. R. No. 1479, dated 22nd February 1889.)

5. Under Section 171 of Act I of 1872, letters between district authorities are public documents forming a record of the acts of public authorities and as such receivable in evidence. The public generally have no right to inspect such documents, and certified copies thereof could not ordinarily be demanded under Section 76 of the Evidence Act.

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† For rules for search, inspection and obtaining copies of maps, land registers and other records of the Bombay City Survey, and all records concerning the land or the land revenue under Section 40 of Act II of 1876, and for rules under Section 41 of the same Act regarding the production of the Bombay Collector's records into Court, *vide* G. N. dated 17th January 1877.

But they would be admissible in evidence and their production compellable by the Court in a suit against Government unless protected either—

- (1) by Section 123 of Act I of 1872 as relating to affairs of State, on which point the decision of the head of the department concerned would be conclusive; or
- (2) by Section 129 as expressly prepared for the instruction of the legal advisers of Government.

The expression "affairs of State" in Section 123 of the Evidence Act would not cover records or correspondence merely affecting the title of an individual to land.

(L. R. No. 970, dated 23rd June 1892; *vide* G. R. No. 5627, dated 9th July 1892.)

6. Except in the case of *unpublished* official records relating to affairs of State, which the officer at the head of the department concerned may withhold as such under Section 123 of the Evidence Act, 1872, the Court alone can decide as to the relevancy and admissibility of any document, the production of which is demanded in a suit—Section 162, Evidence Act, 1872. (L. R. No. 1526, dated 20th October 1892; *vide* G. R. No. 9607, dated 8th December 1892.)

7. No Royal Commission, no Parliamentary Committee, has "free access to the records of Government." The authority of Government to communicate or to withhold records and papers from Parliament is undoubted. Such a refusal does not entail want of confidence, but implies simply that Government are of opinion that a document is irrelevant or from its very nature intended for Government only. Commissions are appointed by Government to institute an independent enquiry by examining witnesses, and by consulting records and such papers as Government may place at their disposal. They are not appointed to institute an enquiry into the actions or opinions of subordinate Government officers, concerning which orders have been passed by Government. Nowhere have any Government ever granted powers which would be tantamount to abdication and which would paralyse administration, because it is obvious that—in their official intercourse with Government—officers of Government frequently make communications which are intended *for Government only* and it would be on the part of Government a gross breach of confidence to divulge such communications. (G. R. No. 1678, dated 3rd March 1886.)

8. His Excellency the Governor in Council is pleased to publish for general information the following rules for inspection, search or obtaining copies of documents from the records of the Secretariat:—

1. Every application for search, inspection and obtaining copies of or extracts from the Government records shall be made in writing on plain paper. The date of receipt shall be endorsed

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upon the application as also shall be the number and date of the order of the Secretary granting the same and the dates on which the requisition was satisfied, and the amount of the fee received shall be duly recorded. The name of the person who conducted the search shall also be recorded in full.

2. Copies shall be given in accordance with Article 22, Schedule I of Act I of 1879, and Schedule I of Act VII of 1870.

3. A fee of Rs. 5 for each day will be charged in every case for search and inspection when permitted by Government. In no case will less than Rs. 5 be charged for search or inspection. The search will be conducted by clerks in the Department of the Secretariat concerned.

4. Each applicant will be required to pay a deposit of Rs. 20 before search and inspection of records are allowed.

5. For every copy of a document taken from the records a fee of one rupee will be charged as a comparing fee.

6. Copying fees at the rate of one anna for every 100 words or fraction of 100 words will be charged, but if the original is in a tabular form double this rate will be charged.

7. No search, inspection or copies of documents will be given in cases where it is considered that such a course would be prejudicial to the interests of Government.

(G. N. No. 2023, dated 14th March 1889.)

9. The best arrangement for the safe custody of reclamation and other leases granted in the several districts of minor importance is to keep them in the Collectors' safes. Printed lists of these leases should be sent to the General Record Room. In the case of more important leases which will fall in after ninety-nine years, greater precautions are necessary. These should all be printed, and authenticated copies should be kept in the Secretariat, Bombay, and at the Collectors' head-quarters. (G. R. Nos. 2351, dated 2nd May 1879, and 9991, dated 19th December 1884.)

10. The Collectors should forward to Government lists of leases granted in their respective districts since the date of Government Resolution No. 2351, dated 2nd May 1879, to be added to the lists previously printed. (G. R. No. 6827, dated 22nd August 1885.)

11. The officials, in whose custody public documents are, are responsible for their not being tampered with, and if any tampering is found to have occurred, they are bound to show that they were not privy to and had no concern in the matter, and are not responsible for what occurred. (G. R. No. 4334, dated 30th May 1884.)

12. It is essential that the greatest care should be taken of papers sent from the Alienation Office on loan to officers for reference, &c. With a view to avoid the possibility of such papers being lost or stolen when papers are received for reference from the Alienation Office, the officer receiving the same should give a receipt for the same, keep them always in his own custody and must personally see them packed for despatch so as to be sure of the contents of the parcel or packet, and all such parcels or packets should be invariably registered. In cases where the papers applied for are not lengthy, the Commissioner may use his discretion in supplying copies in lieu of sending the originals. (G. R. No. 7003, dated 29th August 1885.)

13. Government attach great importance to the systematic indexing of the records in the mofussil kacheris, and the Commissioners should see that this work is kept up to date in the districts under their charges. (G. R. No. 1220, dated 13th February 1889.)

14. It is of the utmost importance that the orders regarding the destruction of old and useless records should be carefully and regularly carried out, as useless papers not only take up a great deal of room, but if allowed to accumulate soon get beyond the power of the ordinary establishment to put them in order. The Commissioners on their tours should continue to see that no laxity is allowed in this respect. (G. R. No. 4491, dated 21st August 1874.)

15. Generally no documents in which the Accountant-General's office may be interested should be destroyed without the assent of that officer. (G. R. No. 3276, dated 21st June 1879.)

16. As regards the classification and destruction of papers of the Forest Department, Government are of opinion that papers classed A should be kept permanently and those classed B should be destroyed after varying periods. It would be easy to mark on the bundles of B papers the period after which they should be destroyed. Before, however, the papers classed B are destroyed, lists of such papers should be submitted to the Conservators of Forests or Deputy Conservator of Forests in charge of Circles for approval. (G. R. No. 8697, dated 7th November 1895.)

Note.—The revised lists of A and B papers prescribed in this Resolution have not been printed in this compilation.

17. Lists* of A and B Famine papers have been prescribed by G. R. No. 6309, dated 27th August 1889.

18. The list* of papers pertaining to the office of Collectors to be periodically destroyed has been sanctioned by Government Resolutions Nos. 8818, dated 9th November 1892, and 2828, dated 21st April 1893.

* Not printed.

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19. Lists* of Táluka, Huzúr and Village A and B papers have been sanctioned in Government Resolution No. 3479, dated 20th April 1892, and a further revision of them has been ordered in Government Resolution No. 5921, dated 10th August 1897.

20. The list* of papers in the Vernacular Branch of the Divisional Commissioner's offices to be preserved and destroyed has been sanctioned by Government Resolution No. 6897, dated 7th September 1895.

21. With the object of enabling boys attending vernacular schools to learn to read vernacular handwriting, Mámlatdárs may supply on application by school masters of Government schools a number of B list papers, taking a receipted list thereof from the school masters, who shall be responsible for them, and on duly returning them, can have a fresh supply of such papers. Care should, however, be taken that no *records* (of the A list) that are to be kept are allowed to leave the Mámlatdárs' kacheris, and that all B papers lent are carefully returned. (G. Rs. Nos. 2643, dated 22nd May 1878, and 3099, dated 19th June 1878.)

22. Masters of registered indigenious schools should be furnished by Mámlatdárs with B list papers through the kulkarnis of the villages in which the schools are situated, care, however, being taken that no records of A list papers are allowed to leave the Mámlatdárs' kacheris. (G. Rs. Nos. 7004, dated 2nd September, and 7986, dated 9th October 1884.)

23. It is essential that waste paper in Government offices should be so disposed of as to reduce to a minimum the risk of fire from its being allowed to accumulate. For this purpose it should either be collected and burnt daily by the office peons or stored in iron bins till removed. Where it is probable that the proceeds of the sale of the paper will cover the cost of the bins, the latter course should be adopted. (G. R., P. W. D., No. 295A-1037, dated 27th July 1897.)

24. The proceeds of the sale of waste paper must be credited to Government, and all charges connected with the preservation of records should be duly provided for in the budget. (G. R. No. 889, dated 22nd February 1871.)

25. Papers filed under Acts XIX of 1857, X of 1866 and VI of 1852, of such companies as have become defunct or been dissolved for over five years should be destroyed, subject only to such special direction, if any, as might be made at the time of the winding up of any company regarding the disposal of their papers under the first clause of Section 199 of the Indian Companies Act. (G. R. No. 4711, dated 20th July 1898.)

* Not printed.

Note.—It is not intended that daftars already sorted and classed according to the old list should be resorted according to the new, but that the revised classing should apply only to records which had not already been sorted.

(G. R. No. 4645, dated 28th June 1898.)

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REGISTRATION.

I.—INDIAN COMPANIES ACT VI OF 1882.

I.—ANNUAL REPORT.

1. THE annual report on the working of the Indian Companies Act should be made out for the official year. (G. I., R. A. & C., No. 13, dated 23rd December 1878; *vide* G. R. No. 50, dated 6th January 1879.)

2. It should be submitted to Government by the 1st June at the latest, and should reach the Government of India within three months of the end of the year, that is to say, not later than the 1st July.

The Companies should be classified as follows in the report:—

- | | |
|---------------------------------------|--|
| (a) Banking, Loan and Insurance. | |
| (b) Trading | ... { Merchants and traders.
Navigation, Railways
and Tramways.
Co-operative associations.
Shipping, landing and
warehousing. |
| (c) Mills and Presses. | { Cotton Mills,
Jute Mills.
Mills for cotton, jute,
wool, silk, hemp, &c.
Cotton and jute—screws
and presses.
Other mills and presses. |
| (d) Tea and other planting companies. | { Tea.
Coffee and cinchona.
Others. |
| (e) Mining and quarrying. | |
| (f) Ice manufacture. | |
| (g) Sugar manufacture. | |
| (h) Breweries. | |
| (i) Others. | |

In preparing the list care should be taken to separate companies that have gone into liquidation, or are winding up, or have dissolved during the year under report, from companies that are working. But companies that have gone into liquidation and registered themselves afresh merely in satisfaction of a required formality, without ceasing work, should not be removed from the list of working companies; a foot-note in the list should indicate the nature of the operation effected. Where a transaction at the Registrar's Office is merely formal, and does not touch the sum of the capital, the paid-up capital last declared should be entered in the report and statements.

Companies that have wound up finally before the year under report should be omitted altogether. Increases and decreases of capital should be particularly noticed, and the causes explained.

Companies limited by guarantee, that is possessing no capital paid up, should be entered in a separate list. Literary, scientific and charitable societies registered under Act XXI of 1860 need not be noticed in the report on Joint Stock Companies.

The statistical information to be given with the reports should be furnished in the ten forms annexed. As reports must be based on these statements, it is evident that the tables should be framed with absolute accuracy.

(FORMS REFERRED TO ABOVE).

No. I.

Abstract of Joint Stock Companies.

	COMPANIES DIVIDED INTO SHARES.			COMPANIES LIMITED BY GUARANTEE, &c., POSSESSING NO CAPITAL PAID UP.	
	No. of Companies.	Nominal capital.	Paip-up capital.	No. of Companies.	No. of Members.
		Rs.	Rs.		
Working at close of (1891-92) ...					
Registered during (1892-93) ...					
Capital increased during (1892-93) .					
Capital decreased during (1892-93) .					
Ceased to work during (1892-93) ...					
Working at close of (1892-93) ...					

No. II.

Joint Stock Companies registered during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	Nominal capital.	Paid-up capital.	Situation of registered office.
		<i>I.—Banking, Loan and Insurance—</i>		Rs.	Rs.	
		(a) Banking and loan (name each)	Total of (a) ...			
		(b) Insurance (name each)	Total of (b) ...			
			Total of Banking, etc. ...			
		<i>II.—Trading.</i>				
		(a) Merchants and traders. (name each)	Total of (a) ...			
		(b) Navigation (name each) (and so on)	Total of (b) ...			
			Total of Trading			
		<i>III.—Mills and Presses—</i>				
		(a) Cotton mills (name each) (and so on)	Total of (a) ...			
			Total of Mills and Presses.			
			GRAND TOTAL OF ALL COMPANIES.			

No. III.

Companies limited by guarantee registered during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	No. of Members.	Situation of registered office.
		<i>I.—Banking, Loan and Insurance—</i>			
		(a) Banking and loan (name each)	Total of (a) ...		
		(b) Insurance (name each)	Total of (b) ...		
			Total of Banking, &c. ...		
		<i>II.—Trading—</i>			
		(a) Merchants and traders. (name each)	Total of (a) ...		
		(b) Navigation (name each) (and so on)	Total of (b) ...		
			Total of Trading		
		<i>III.—Mills and Presses.</i>			
		(a) Cotton mills (name each) (and so on)	Total of (a) ...		
			Total of Mills and Presses...		
			GRAND TOTAL OF ALL COMPANIES ...		

No. IV.

Joint Stock Companies that have increased their capital during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Date of increase.	PREVIOUS CAPITAL.		PRESENT CAPITAL.		DIFFERENCE.	
				Nominal.	Paid-up.	Nominal.	Paid-up.	Nominal.	Paid-up.
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
		<i>I.—Banking, Loan and Insurance—</i>							
		(a) Banking and loan ...	Total of (a)...						
		(name each)							
		(b) Insurance ...	Total of (b)...						
		(name each)							
			Total ...						
		<i>II.—Trading—</i>							
		(a) Merchants and traders ...	Total of (a)...						
		(name each)							
		(and so on)							
			Total of Trading ...						
			GRAND TOTAL OF ALL COMPANIES ...						

No. V.

Joint Stock Companies that have reduced their capital during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Date of reduction.	PREVIOUS CAPITAL.		PRESENT CAPITAL.		DIFFERENCE.	
				Nominal.	Paid-up.	Nominal.	Paid-up.	Nominal.	Paid-up.
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
		<i>I.—Banking, Loan and Insurance—</i>							
		(a) Banking and loan ...	Total of (a)...						
		(name each)							
		(b) Insurance ...	Total of (b)...						
		(name each)							
			Total ...						
		<i>II.—Trading—</i>							
		(a) Merchants and traders ...	Total of (a)...						
		(name each)							
		(and so on)							
			Total of Trading ...						
			GRAND TOTAL OF ALL COMPANIES ...						

No. VI.

Joint Stock Companies that, having ceased work, have gone into liquidation or have been finally dissolved (or otherwise become defunct) during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Nominal capital.	Paid-up capital.	Date of going into liquidation.	Date of final dissolution.
		<i>I.—Banking, Loan and Insurance—</i>	Rs.	Rs.		
		(a) Banking and loan ... (name each)				
		Total of (a) ...				
		(b) Insurance ... (name each).				
		Total of (b) ...				
		Total ...				
		<i>II.—Trading—</i>				
		(a) Merchants and traders ... (name each).				
		Total of (a) ... (and so on)				
		Total of Trading...				
		GRAND TOTAL OF ALL COMPANIES.				

No. VII.

Companies limited by guarantee that, having ceased work, have gone into liquidation or have been finally dissolved or (otherwise become defunct) during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	No. of Members.	Date of going into liquidation.	Date of final dissolution.
		<i>I.—Banking, Loan and Insurance—</i>			
		(a) Banking and loan ... (name each).			
		Total of (a) ...			
		(b) Insurance ... (name each).			
		Total of (b) ...			
		Total ...			
		<i>II.—Trading—</i>			
		(a) Merchants and traders ... (name each)			
		Total of (a) ... (and so on)			
		Total of Trading ...			
		GRAND TOTAL OF ALL COMPANIES...			

No. VIII.

List of Joint Stock Companies at work on the 31st March (1893).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	Nominal capital.	Paid-up capital.	Situation of registered office.
				Rs.	Rs.	
		<i>I.—Banking, Loan and Insurance—</i>				
		(a) Banking and loan (name each) . . .	Total of (a) ...			
		(b) Insurance ... (name each).	Total of (b) ...			
			Total ...			
		<i>II.—Trading—</i>				
		(a) Merchants and traders (name each) (and so on) ...	Total of (a) ...			
			Total of Trading ...			
			GRAND TOTAL OF ALL COMPANIES.			

No. IX.

List of Companies limited by guarantee at work on the 31st March (1893).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	Number of Members.	Situation of registered office.
		<i>I.—Banking, Loan and Insurance—</i>			
		(a) Banking and loan (name each) ...	Total of (a) ...		
		(b) Insurance (name each) ...	Total of (b) ...		
			Total ...		
		<i>II.—Trading—</i>			
		(a) Merchants and traders (name each) (and so on) ...	Total of (a) ...		
			Total of Trading ...		
			GRAND TOTAL OF ALL COMPANIES.		

3. Companies like the Viramgám Vepár Uttejak Ginning Company, Limited, whose declared object is that of ginning and pressing cotton, should be placed under "Mills and Presses" instead of under "Trading Companies." (G. I., F. & C., No. 314S., dated 30th November 1886; *vide* G. R. No. 8679, dated 9th December 1886.)

II.—DUTIES AND APPOINTMENTS OF THE REGISTRAR AND ASSISTANT REGISTRAR OF JOINT-STOCK COMPANIES.

1. Under the provisions of Section 190* of the Indian Companies' Act, 1866, His Excellency the Governor in Council is pleased to make the following regulations with respect to the duties to be performed by the Registrar and Assistant Registrar of Joint Stock Companies in the Bombay Presidency.

1st. The Registrar of Joint Stock Companies shall in his discretion institute such enquiries and investigations at the offices of registered Companies or otherwise as shall be necessary to obtain information or evidence respecting defaults made by such Companies in complying with any of the provisions of the Indian Companies' Act, 1866.

2nd. In the absence of the Registrar from Bombay, any act directed in the aforesaid Act to be done to or by the Registrar of Joint Stock Companies shall be done to or by the Assistant Registrar of Joint Stock Companies.

3rd. The Registrar of Joint Stock Companies may at any time, at his discretion, direct the Assistant Registrar of Joint Stock Companies to perform any act directed to be done by the Registrar of Joint Stock Companies under the aforesaid Act. (G. N., dated 21st November 1866; *vide* G. R. No. 4303 of the same date.)

2. It is the duty of the Registrar of Joint Stock Companies to prosecute for defaults on the part of Companies and individuals in furnishing to him certain returns, documents and notices which the law requires them to furnish, but in any such case he should act in communication with the Government Solicitor. (G. R., J. D., No. 1375, dated 27th April 1866.)

3. The Sub-Registrars of the places named in the margin have been appointed, under Section 190,* clause 1 of Act X of 1866, *ex-officio* Assistant Registrars of Joint Stock Companies to prosecute defaulting Companies doing business within their jurisdiction. (G. N., dated 4th July 1877; *vide* G. R. No. 2739, dated 28th April 1877.)

Ahmedabad and
Daskroi, Broach, Surat
and Chorási, Godhra,
Poona, Dhárwár and
Karáchi.

margin have been appointed,
under Section 190,* clause 1
of Act X of 1866, *ex-officio*
Assistant Registrars of Joint
Stock Companies to prosecute

III.—ESTABLISHMENT.

1. The appointment of clerk to the Registrar of Joint Stock Companies should be made by the Registrar with the approval of the Inspector General of

* *Vide* Sections 2 and 220 of the Indian Companies' Act, 1882.

Registration and Stamps, who should have the power to remove the clerk from his post if he considers it necessary to do so in the interests of the public service. (G. R. No. 5437, dated 30th July 1886.)

IV.—REGISTRATION OF PROVIDENT SOCIETIES OR BENEFIT CLUBS.

If such an Association as what would be called in England a Provident Society or Benefit Club is to be registered under the Indian Companies' Act, it must be in the ordinary way, and not by license under Section 26, which only applies to Associations not for profit; and benefit to the subscribers on death is profit, not charity. (Adv. Gen. No. 117, dated 3rd December 1889; *vide* G. R. No. 9702, dated 23rd *idem*.)

V.—PROSECUTIONS.

If an offence committed by a Company under the Indian Companies' Act is one which must be said to have been committed in Bombay, whether the Company's registered office is there or not, the prosecution of the Company must take place in Bombay. If the offence is committed at some place in the mofussil, the prosecution must take place there and should be conducted by the Government Pleader at that place, if there is one, or, failing him, by any other pleader under the instructions of the Registrar of Joint Stock Companies. In a case of the latter description the evidence of commission of the offence to be dealt with must, if necessary, be despatched from Bombay, in order to be produced before the mofussil Magistrate. (Memo. from Solicitor to Government No. 1558, dated 30th November 1868; *vide* G. R. No. 4574, dated 4th December 1868.)

II.—PARSI MARRIAGE AND DIVORCE ACT, 1865.

The Registrar General should exercise superintendence over the Registrars of Parsi marriages.

A marriage certificate sent by a priest to a Registrar in conformity with Section 6 of Act XV of 1865 should be copied into a book, which should be called the Register of Parsi Marriages, and the original certificate should be preserved in the office and filed in a paste-book. (G. R. No. 3387, dated 5th September 1868.)

III.—INDIAN REGISTRATION ACT, 1877.

I.—APPLICATION OF THE ACT.

1. Acts like the Indian Registration Act, III of 1877, which in terms extend to the whole of British India necessarily apply to the Scheduled districts as well as to the Regulation districts, and no notification under the Scheduled Districts Act XIV of 1874 is necessary to give them operation in those districts. (L. R. No. 1329, dated 3rd December 1877; *vide* G. R. No. 7299, dated 8th *idem*.)

2. The tracts of country belonging to the following Mehwási Chiefs are excluded from the operation of the Indian Registration Act III of 1877 :—

The Párvi of Káthi.

„ Nál.

„ Singpur.

The Walvi of Gaohálii.

The Wasáva of Chikhli.

The Párvi of Nawalpur.

(G. I., H. D., No. 683, dated 27th March 1878; *vide* G. R. No. 1752, dated 5th April 1878.)

II.—ANNUAL REPORT.

1. The Administration Report of the Registration Department should be submitted in full every third year, statistical returns and brief commentaries in the shape of notes being submitted in the intermediate years. The notes should give a clear, though brief, indication of the supervising or controlling officer's opinion as to the significance of the statistics. The latest dates of submission of the Annual Report to the Local Government and the Government of India are 15th August and 1st October respectively. (G. I., H. D., Nos. 28-1579-95, dated 15th July 1887, and 11-790-801, dated 24th April 1891; *vide* G. Rs., G. D., Nos. 2426, dated 17th August 1887, and 3346, dated 22nd September 1891.)

2. The annual reports on the operations (a) in the Registration Department proper and (b) in the Village Registration Department should be combined in one communication, but the two subjects should be dealt with separately. (G. M. No. 3043, dated 25th April 1889.)

3. Local Governments are at liberty to order the introduction of additional columns in the statistical forms* prescribed by the Government of India for the annual reports of the Registration Department or the adoption of extra forms for any *additional* information that, owing to local reasons, may be considered necessary or desirable. But it should be borne in mind that whenever the adoption of any new column or of any new sub-division of an old column is resolved upon, it should be distinguished from the prescribed columns in the manner explained in the Home Department Resolution† No. 796-800, dated 12th May 1873. (G. I., H. D., Nos. 5442, dated 13th December 1871, and 64-2667, dated 30th October 1874; *vide* G. Rs. Nos. 6409, dated 21st December 1871, and 5953, dated 12th November 1874.)

*These forms were prescribed in the Resolution of the Government of India No. 5442, dated 13th December 1871; *vide* G. R. No. 6409, dated 21st idem; *vide* also G. Rs. Nos. 1037 dated 19th February 1875, 6956 dated 21st November 1881, 6767 dated 5th October 1887 and 2345 dated 1st April 1890.

†Extract from G. I., H. D., No. 796-800, dated 12th May 1873 (*vide* G. R., J. D., 3023 dated 31st idem) :—

Local Governments can use their discretion as to entering in the prescribed returns such additional columns as seem to be really needed for adequately exhibiting or explaining the information which the returns are intended to convey. So far as these purposes require, the original columns can also be subdivided, provided that the original columns themselves are

REGISTRATION.]

4. In the annual administration report the names as well as the number of offices examined by the Inspector General of Registration and Stamps should be furnished.

In the case of the chief heads of revenue and expenditure and of the more important classes of documents, the average figures for the five preceding years should be shown. (G. R. No. 6056, dated 16th November 1880.)

5. The Registrars and the Inspector General of Registration should endeavour to explain the variations in the registrations of different classes of documents separately instead of assigning general causes for increases or decreases in the total numbers of documents registered. (G. R. No. 158, dated 9th January 1883.)

6. The Inspector General of Registration and Stamps should obtain and embody in his annual report

retained. It is probable that the necessity for any changes of this kind will greatly be reduced if a column of remarks be used in *all* statements. If the Local Administrations, however, find it essential to alter the tabular forms in which their statistics are sent up to the Government of India (which should never be done in the way of expansion or mere addition, but only in the way of elucidation), then the following method must be observed. All *new items* and all *new columns* should be given in different coloured ink, so as to be at once distinguishable from those *prescribed*, and all fresh columns should be distinguished by a subordinate number so as not to alter the numbers given by the Government of India to the columns in the prescribed statements; thus if it be intended to add two columns between columns 3 and 4 of any Statement, the heading of these new columns and the numbering, as well as the figures in them, should be (if the rest of the statement is in black) given in *red* ink, and the numbers should be 3a and 3b. In giving totals and averages, if the figures shown in the new columns will affect these, then these should be *twice* given; one total or average showing what the result would be according to the *prescribed statement*, the other (which should be in ink of a different colour) those as resulting from the additional figures.

If a column be sub-divided, the sub-divisions should be shown thus: Let column three, for example, be that of the prescribed statement, and suppose it is desired to divide it into three sub-heads, then the addition will be given thus:—

3	DETAILS OF COLUMN 3.		
	3a	3b	3c
Number of persons released pending trial.	On bail.	On their own security.	Without security.

By these means it will be possible to show any *additional* subordinate matter which the Local Governments find really needed without disturbing the uniformity of the prescribed statements. The fundamental arrangement of these statements should be left wholly untouched. Statistics should not be thrown into groups which are arranged in the prescribed statements alphabetically, or *vice versa*, nor should the order of the columns be transposed. But any criticisms or proposed improvements may be submitted separately for consideration.

on the working of the Indian Registration Act, 1877, and the Dekkhan Agriculturists' Relief Act, 1879, accurate information regarding the causes of the principal variations in the number of registrations. (G. R. No. 8956, dated 4th December 1893.)

III.—OBJECTS, PRINCIPLES AND POLICY OF THE DEPARTMENT.

1. It is necessary that the Registration Department should be self-supporting, but it is not intended that registration should be treated as a source of revenue, and the cheapening of transactions connected with it must have a considerable influence in popularizing and extending it to the public advantage. (G. R. No. 9474, dated 25th November 1885.)

2. The Governor General in Council trusts that no efforts will be spared to endeavour to make the registration of optionally registrable deeds more general than it is. It is incumbent on the Government to give all reasonable facilities for registration by establishing offices in sufficient numbers and appointing special officers for all places where there is no other public servant available with leisure to attend to the work, and where the receipts are likely to be sufficient to cover the cost. There is ample scope for increasing the number of offices in places where they do not at present meet the requirements of the people. The department has not been established for the purpose of realising a profit to Government, but in order to secure a better record of title in land and better evidence of monetary transactions among the people; and the Governor General in Council trusts that Local Governments and Administrations will not lose sight of the need for devoting the surplus in their hands (after meeting pensions and other indirect charges) to providing facilities for registration when experience shows that they are required. (G. I., H. D., No. 6 Pub.—259-271, dated 17th February 1891; *vide* G. R. No. 1724, dated 6th March 1891.)

3. As a general rule the Government of India is not disposed to regard with favor proposals to enhance registration fees especially when the enhancement affects documents of small values. It seems to His Excellency the Governor General in Council to be good policy to cheapen fees chargeable on such documents with the view of popularizing the system of registration and relieving the pressure which it must necessarily entail on the poorer classes. (G. I., H. D., No. 1000, dated 6th May 1887; *vide* G. R. No. 3376, dated 30th idem.)

4. In attempting to ascertain the value of estates and tenures transferred by registered deeds of sale, registering officers in Bengal were instructed to make enquiries of parties presenting deeds in which no revenue or rental was mentioned, in view to supplying the requisite details. In several instances such interference was resented, parties declining to furnish the information as not compulsory under the law. The Government of India consider that

the prosecution by registering officers of personal interrogations on points regarding which the law does not oblige the parties to give information is greatly to be deprecated. There is nothing more likely to render registration unpopular and to contract the business of the Department. Local Governments should see that any general instructions of this description, which may have been issued, are withdrawn. (G. I., H. D., No. 36-1174-85, dated 1st September 1883; *vide* G. R. No. 7507, dated 8th October 1883.)

IV.—REGISTRATION DISTRICTS AND SUB-DISTRICTS.*

1. Under Section 5† of Registration Act VIII of 1871, His Excellency the Honourable the Governor in Council is pleased to order that on and from the 1st of October 1872, the British territory at Aden shall be formed into a district for the purposes of the above-named Act. The limits of the Aden District shall be the limits of the territory now in occupation at Aden, and shall include the Cantonment, Fortress, Port, Town, and Suburbs actually in possession of the British authorities. His Excellency in Council is further pleased, under Section 6 of Act VIII of 1871, to appoint the First Assistant Resident at Aden, or the officer acting in that capacity, *ex-officio* Registrar of Assurances for the Aden District, on and from the date of the introduction of the above-named Act into that place. (G. N. dated 3rd July 1872; *vide* G. R. No. 3184 of the same date.)

† Cf Section 5 of the Indian Registration Act, 1877.

2. Under Section 5 of the Indian Registration Act, No. VIII of 1871, His Excellency the Honourable the Governor in Council is pleased to order that on and from the 1st of July 1875 a Registration Sub-District shall be formed at Aden. The limits of the Aden Sub-District shall be conterminous with those of the District of Aden as prescribed in the Notification dated 3rd July and published at page 839 of the *Government Gazette* of 4th July 1872. (G. N., dated 14th June 1875; *vide* G. R. No. 3362 of the same date.)

3. In exercise of the powers conferred by Sections 5 and 7 of the Indian Registration Act, No. III of 1877, and in supersession of all previous notifications regarding the Registration District and Sub-District of Bombay and the office of Registrar and Sub-Registrar therein, the Governor in Council is pleased to direct that, with effect on and after the 1st January 1888, (a) the City of Bombay, as defined in the Bombay General Clauses Act, 1886, shall be a Registration District and also a Registration Sub-District; (b) the office of the Sub-Registrar of Bombay shall be amalgamated with that of the Registrar of Bombay; (c) the said Sub-Registrar shall exercise, in addition to his own powers and

* Most of the Notifications regarding the Registration Districts and Sub-Districts in this Presidency have not been reproduced here, being not of sufficient general importance.

duties, all the powers and duties of the Registrar of Bombay, except the power to hear an appeal against an order passed by himself under the said Act. (G. N. No. 8531, dated 16th December 1887.)

4. With reference to Sections 4, 5, 6 and 7 of the Indian Registration Act III of 1877, as extended to the Cantonment of Deesa, the Governor General in Council is pleased to make the following orders:—

(1) All the powers and duties conferred and imposed by the Act upon the Inspector General of Registration shall be exercised and performed within the Cantonment of Deesa by the Inspector General of Registration of the Bombay Presidency.

(2) For the purposes of the Act the Cantonment of Deesa shall form a District and also a Sub-District.

(3) The Political Superintendent of Pálanpur for the time being shall be the Registrar and the Cantonment Magistrate of Deesa for the time being the Sub-Registrar of the said District and Sub-District, respectively.

(4) The office of the Political Superintendent of Pálanpur for the time being shall be the office of the Registrar and the office of the Cantonment Magistrate of Deesa for the time being that of the Sub-Registrar. * * * (G. I. Notification, Foreign Department, No. 2734-I., dated 5th July 1888; *vide* G. N. No. 4614 dated 11th idem.)

5. In exercise of the powers conferred by Government of India's Notification No. 402-I. of 1885, republished at page 156 of the *Bombay Government Gazette* of 12th February 1885, His Excellency the Governor in Council is pleased, under Section 7 of the Indian Registration Act of 1877, to direct that on and after 1st of October 1888 the office of the Sub-Registrar of the Deesa Registration Sub-District, as declared by the Government of India's Notification No. 2734-I of 1888, republished at page 574 of the *Bombay Government Gazette* of 12th July 1888, shall be amalgamated with the office of the Registrar of the Registration District of Deesa, as declared in the said Notification. His Excellency the Governor in Council is further pleased, under the said section, to authorise the Sub-Registrar of Deesa to exercise and perform, in addition to his own duties, all the powers and duties of the said Registrar of Deesa except the power of hearing appeals. (G. N. No. 6369, dated 21st September 1888.)

V.—REGISTRARS.

1. The status of *ex-officio* Registrars of their districts is nowhere assigned in the Act to Collectors and Acting Collectors. Therefore, when an officer is appointed to be or to act as Collector of a District, it will be notified by Government that he has also been appointed to be or to act as Registrar of his District. (G. R. No. 1151, dated 4th March 1878.)

The duty of appointing some one to carry on the duties of District Registrars during the temporary

absence of the Registrar appointed by Government or when the office is temporarily vacant till the appointment is filled up by Government rests under Section 10 of the Indian Registration Act, 1877, with the Inspector General. That officer should issue a circular order designating the persons on whom the duties of Collector and District Magistrate might devolve under Section 11 of the Land Revenue and Criminal Procedure Codes as the persons appointed by the Inspector General to act in such vacancies until the Local Government fills them up. (G. L. No. 2117, dated 22nd March 1893.)

2. Section 30 (b) of Act III of 1877 empowers the Registrar of a District, including a Presidency town, to receive and register any document* referred to in Section 28, without regard to the situation (in any part of British India) of the property to which such document relates. Section 67 provides that on any document being so registered, a copy thereof, and of the endorsements and certificate thereon, shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situated, and the Registrar shall, under Section 66, forward a memorandum of such document to each Sub-Registrar subordinate to himself, in whose sub-district any part of the property is situated. A case was brought to the notice of the Government of India, in which after effecting the registration of a deed under Section 30 (b) of the Act, the Registrar who originally registered the deed failed to comply with the directions contained in Section 67 of the Act, in respect of the transmission of the record of registration to every Registrar within whose district any part of the property to which the instrument related was situated. The necessary result of this omission was that the record of registration remained incomplete, and failed to show existing encumbrances on the property to which the document registered related. In order to prevent the recurrence of such omissions, the special attention of the Inspector General of Registration is drawn to the matter in view to the issue of stringent instructions for a strict compliance with the requirements of the law. (G. I., H. R. & A., No. 47—1651, dated 28th October 1880; *vide* G. R. No. 6119, dated 19th November 1880.)

3. The District Registrar may, if he so desires, place his office safe in the treasury of his Huzúr station for safe custody. (G. R. No. 5687, dated 21st July 1884.)

VI.—SUB-REGISTRARS.

1. The appointment of Sub-Registrars rests with Government under Section 6 of Act III of 1877. The appointments to permanent vacancies should not be made in anticipation of the sanction of Government. When a vacancy in an appointment of

Sub-Registrar is about to occur, the Registrar should report the fact to the Inspector General of Registration and make any recommendation which he thinks fit regarding the successor. The Inspector General of Registration may either adopt the recommendation of the Registrar or make any other which he thinks more suitable. Section 12 of the Act provides that when a Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar appoints shall be Sub-Registrar during such absence or until Government fills up the vacancy. In accordance with this provision, the Registrar should arrange for the performance of the duties pending the appointment of a Sub-Registrar by Government, if the vacancy occurs before the appointment is made, but it should not be understood that such temporary appointment affects the permanent appointment to be made by Government; and on the other hand the Inspector General has no legal power to interfere with such temporary appointments. (G. R. No. 3402, dated 23rd May 1882.)

2. In 1884 Government sanctioned as an experiment the following plan proposed by the Inspector General of Registration and Stamps, and observed that in working it Government Resolution No. 3402, dated 23rd May 1882, should not be overlooked, and that the proposal was understood to be subsidiary to the orders in that Resolution :—

“The nomination to all vacancies in Sub-Registrarships for periods exceeding three months in duration should alternate between the Registrar of the District and the Inspector General. The officer who makes the initiatory nomination should make the further nominations arising out of it, i.e. if it is the Registrar's turn to nominate to a vacancy in the upper grades in his district, the flow of promotion thereby occasioned in that district should be at his disposal, the same holding good as regards the Inspector-General's privileges when the initiatory nomination rests with him. In the case of a Registrar with the concurrence of the Inspector General nominating a Sub-Registrar from another district to a vacancy occurring in his district, the nomination to fill such transfer-vacancy and others which might arise therefrom should also be regulated as above stated.”

(G. R. No. 5589, dated 11th July 1884.)

3. The Inspector General of Registration and Stamps should inform the Accountant General of the dates on which Sub-Registrars give over and receive charge of their duties. (G. R. No. 1954, dated 16th April 1878.)

4. The Inspector General of Registration and Stamps cannot even in cases of emergency transfer in a permanent sense a Sub-Registrar from one post to another in anticipation of the sanction of Government. (G. R. No. 7798, dated 22nd November 1888.)

5. The sanction of Government is necessary even in the case of temporary transfers of Sub-Registrars made as a disciplinary arrangement. (G. R. No. 6894, dated 14th September 1889.)

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6. The Inspector General of Registration may suspend a Sub-Registrar, but he should report his proceedings to Government after inquiry into the case. (G. R. No. 1371, dated 17th March 1874.)

7. The salaries of all the Sub-Registrars in the Presidency proper excepting the Sub-Registrar of Bombay and the Sub-Registrar and Táluka Village Registrar of Haveli should be personal and not local. (G. Rs. Nos. 318, dated 14th January 1889, 2819, dated 24th April 1891, and 3900, dated 9th June 1891.)

8. The Sub-Registrars in the Presidency proper (with the exception of the town and island of Bombay) should in addition to their fixed salaries receive 20 per cent. of the fees collected by them. (G. R. No. 3373, dated 22nd September 1866.)

9. The Sub-Registrars of Hyderabad, Shikárpur, Sukkur, Lárkhána, Rohri and Dádu should be paid at the rate of 40 per cent. on the gross collections, subject to the following maximum limits :—

	Rs.
Sub-Registrar of Hyderabad	125
Do. Shikárpur	125
Do. Sukkur	80
Do. Lárkhána	80
Do. Rohri	70
Do. Dádu	60

The other Sub-Registrars in Sind (excepting the Sub-Registrar of Karáchi whose pay has been fixed at Rs. 100 per mensem by Government Resolution No. 5084, dated 16th July 1889) should be paid at the rate of 50 per cent. of the fees. (G. Rs. Nos. 6971, dated 12th October 1887, and 5952, dated 31st August 1891.)

10. The Sub-Registrar of Aden should be allowed 20 per cent. on the gross collections in his office. (G. R. No. 5183, dated 11th September 1875.)

11. The percentage allowance to Sub-Registrars is not to exceed Rs. 200 per mensem. (G. I., H. D., No. 527, dated 11th February 1873; *vide* G. R. No. 952, dated 18th idem.)

12. When a permanent Sub-Registrar takes sick leave or leave on private affairs, the percentage fees may be drawn in full by the *locum tenens*, who will pay the establishment. (G. Rs. Nos. 1565, dated 16th April, and 2522, dated 23rd June 1869.)

13. For the payment of percentage allowances to officiating Sub-Registrars the amount of the percentage on fees received during any one month should be taken as whole, and dividing that whole by the number of days in the month he should have the due proportion of the whole amount for the number of days he has officiated. (G. R. No. 7069, dated 11th October 1882.)

14. Each of the Sub-Registrars employed in the districts in which the Dekkhan Agriculturists' Relief Act is in force should also be allowed 75 per

cent. of the fees paid on instruments registered by him in his capacity of Táluka Village Registrar or Village Registrar and 5 per cent. on the monthly realizations from the registration fees of the villages in the táluka of which the Sub-Registrar is Táluka Village Registrar. The 5 per cent. should be calculated upon the total receipts before any deduction has been made. (G. Rs. Nos. 452, dated 21st January 1881, and 1186, dated 26th February 1881.)

15. In the Bombay Presidency, Clerks to the Inspector General of Registration and Stamps, Inspectors and their Clerks, Registrars' Clerks or Kárkúns, and Clerks in the office of the Sub-Registrar of Bombay when appointed to act in graded Sub-Registrarships are as a very special case exempted from the operation of Article 156 of the Civil Service Regulations. (G. R. No. 7939, dated 7th October 1892.)

16. All Sub-Registrars when taking charge of a Registry Office should compare the books and property handed over to them with the lists furnished to them, and certify that they have done so. Strict instructions should be issued on this point, and care taken that they are complied with. (G. R. No. 3509, dated 20th August 1869.)

17. Sub-Registrars in the mofussil should be addressed by the title of A'zam in official correspondence. (G. R. No. 8035, dated 1st November 1883.)

Note.—The use of the word "A'zam" does not imply that the person addressed has such a title *ex officio*; the term may be used as the equivalent of the English "Mr.," and should not be formally conferred *ex officio* or otherwise on any individual or class of officers. (G. R., P. D., No. 4122, dated 27th June 1887; *vide* G. M. No. 4845, dated 25th July 1887.)

18. Sub-Registrars should give security in the following amounts, *viz.*:—

	Ra.
Sub-Registrar, Bombay	3,000
1st Grade Special Sub-Registrar...	750
2nd Do. Do. Do. ...	500
3rd Do. Do. Do. ...	350
4th Do. Do. Do. ...	250
1st Grade Sub-Registrar	200
2nd Do. Do. Do. ...	150
3rd Do. Do. Do. and the Sub-Registrar of Peint	100

(G. R. No. 1152, dated 4th March 1878.)

Note.—Under the Resolution of the Government of India in the Department of Finance and Commerce, No. 2232, dated 25th July 1883 (Government Resolution, Financial Department, No. 3031 dated 17th August 1883), it is left optional with subordinate Revenue officers, who are entrusted with the charge of public money, either to deposit Government Promissory Notes, or to execute a bond in the form contained in Schedule B of the Land Revenue Code of 1879.

19. Sub-Registrars are to be considered ministerial officers, though their appointments are gazetted. (G. R. No. 6088, dated 25th October 1876.)

Note.—In Government Resolution No. 6788, dated 26th September 1890, it has been held that Village Registrars are not ministerial officers.

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20. As the appointments of Sub-Registrars are made by Government, returns of the Sub-Registrars who own landed property should be submitted to Government, in order that the object of these returns* may not be defeated. (G. R. No. 4759, dated 3rd July 1886.)

21. The Sub-Registrars of Ahmednagar, Jámkhed, Shevgaon and Nevása, in the Ahmednagar District, are permitted to daily deposit, after the close of their offices, in the treasury rooms at the respective places their office boxes containing Government cash or original documents, registered or awaiting registration, remaining in their hands. (G. R. No. 5024, dated 27th July 1888.)

22. When it is proposed to open a new Sub-Registry office, the opinion of the Registrar of the District should also be obtained and forwarded to Government with the papers by the Inspector General of Registration and Stamps. (G. R. No. 6351, dated 7th September 1886.)

23. All ordinary repairs to Sub-Registry offices should be effected at the same time as the kacheris of which they form a part are repaired. (G. R. No. 189, dated 10th January 1883.)

VII.—INSPECTION.

1. The Inspector General of Registration and Stamps should so arrange his tour of inspection that a different set of offices should come under his observation each year so that the whole should be inspected periodically. (G. R. No. 6056, dated 16th November 1880.)

2. Under Section 8 of the Indian Registration Act, 1877, His Excellency the Governor in Council is pleased to direct that the duty of Inspectors of Registration Offices in the Presidency of Bombay shall be the inspection and examination, subject to such rules or orders as may from time to time be made by the Inspector General, of the offices of Sub-Registrars. (G. R. No. 1152, dated 4th March 1878.)

3. The Inspectors of Registration are bound to inspect every Sub-Registrar's office in their divisions and are responsible for any errors that may escape their observation, and which may be subsequently brought to light. (G. R. No. 6678, dated 17th December 1874.)

4. The Inspectors while examining Sub-Registry Offices should personally examine the Register-Books proper, *i. e.* books Nos. 1, 2, 3 and 4; in the examination of the remaining books, *i. e.* Supplement to Book No. 1, Parts 1 and 2 (consisting of memorandum and map files), Minute Book, Cash Book, Day Book, Batta Book, Receipt Book, Notice Book, Refund Book, Indexes, and in the examination also of the current miscellaneous records of a Sub-

* *Vide* G. R., G. D., No. 833, dated 4th March 1886.

Registry Office, they may avail themselves of the assistance of their clerks. (G. R. No. 525, dated 28th January 1875.)

5. The Registrar of each district should send to the Registrar General a monthly statement, showing the number of offices that have been examined by himself and his Assistants. His Excellency in Council will not fail to notice with marked displeasure any indifference or inattention to this important duty. (G. R. No. 4348, dated 10th September 1870.)

6. It is desirable that junior officers of the Revenue Department, many of whom will in time succeed to the office of District Registrar, should acquire a thorough knowledge of the work of the Registration Department. In furtherance of this object, the following rules for the guidance of Assistant and Deputy Collectors when examining a Sub-Registry Office, have been prescribed. District Registrars should take care that Assistant and Deputy Collectors in their respective charges are furnished with copies of all rules and important circulars of the Registration Department, and extracts should be sent to them from the reports of inspection of offices in their charges by the Inspector General or District Registrar or Registration Inspector. Any irregularity detected by departmental inspection which should have been noticed at previous inspection by the district officers should have special attention called to it, as indicating inefficient performance of a part of the district officer's regular duty.

Points to be observed by an Assistant Collector when examining a Sub-Registry Office:—

- (a).—See that the books and forms of the Sub-Registry Office as per the annexed list are forthcoming, and whether they are written up to date or in arrears.
- (b).—See that the books and particularly the registers are neatly kept and written.
- (c).—See that the indexing work of the office both as regards the original index-sheets and the copies prepared for despatch to the Registrar's Office, are up to date, and that the preparation of one set of these returns has not been allowed to fall behind that of the other.
- (d).—Refer to the Forms W (office copies) of the preceding year, ascertain which was the busiest month in the office, and then further ascertain what during that month was the maximum delay between presentation and date of completion of registration of a deed in the office.
- (e).—Take 10 entries and test (1) the stamp duty, (2) the registration and copying fees in each case.
- (f).—Take 20 entries and see that the seal impression appearing on the original is duly copied in column 2 in the Register Book, and that the true copy certificate to the entry has been signed by the Sub-Registrar.

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- (g).—Refer to Book No. II and with the aid of the Refund Register ascertain whether steps have been taken in due time to refund fees paid on deeds which have been finally refused for registration.
- (h).—Compare the daily totals appearing in the Cash Book with the corresponding entries in the Day Book for one month.
- (i).—Compare the fees levied in twenty cases as per the entries appearing in the Register Book, Receipt Book and Day Book.
- (j).—See that the office seal is clear, and that the impressions thereof on any deed which may be in hand are fairly legible, and that deeds drawn up on more than one piece of paper are sealed across the joints in accordance with standing orders.

An Assistant Collector having visited a Sub-Registry Office for inspection purposes as above, will submit a brief report in his own handwriting on the results of his inspection to the Collector and Registrar of the District, and the latter shall forward such report to the Inspector General of Registration for perusal should it appear to such Collector and Registrar that the report contains anything which it is desirable to bring to the notice of the Inspector General.

List of Books and Forms to be scrutinized at the examination of a Sub-Registry Office by an Assistant Collector.

Books.

Book No. I.	Day Book.
Book No. I, Part I.	Minute Book.
Book No. I, Part II.	Cash Book.
Book No. I, Part III.	Batta Book.
Book No. II.	Miscellaneous Receipt Book.
Book No. III.	Receipt Book.
Book No. IV.	Notice Book.

Forms.

List of Documents destroyed.	Form of account of postal expenditure.
Register of Refunds.	Register of Court-fee Stamps.

(G. R. No. 1800, dated 24th March 1887.)

VIII.—INSPECTORS.

1. The Inspector General of Registration and Stamps may grant leave to Inspectors of Registration and Stamps, and he should sign all notifications regarding their leave and appointments. They are to be considered ministerial officers, though their appointments are gazetted. (G. Rs. Nos. 6088, dated 25th October 1876, 6952, dated 27th November 1876, and 2712, dated 29th March 1884.)

2. The power to make appointments of Inspectors of Registration is vested by Section 8 of the Indian Registration Act, 1877, in the Governor in Council, and it was not intended by Government Resolution

No. 2712, dated 29th March 1884, to confer that power on the Inspector General. (G. Rs. Nos. 2162, dated 13th April 1881, and 4736, dated 3rd July 1889.)

3. In the event of an Inspector going on casual leave, the officer to whom he may hand over his office should not undertake any ordinary inspection duties. (G. R. No. 4145, dated 21st July 1873.)

4. It will be in the power of the Inspector General to withhold the whole or any portion of the travelling allowance of the Inspectors if on a perusal of the monthly diaries he considers an Inspector has not been sufficiently active in his movements.

The movements of the Inspectors during the monsoon may be regulated by the Inspector General, the wish of Government that during the monsoon months the Inspectors should divide their time between the different head-quarters of the districts comprising their charges being, as far as is consistent with the proper working of the Department, adhered to (G. Rs. Nos. 2565, dated 5th May, and 4390, dated 31st July 1873.)

5. The Inspectors will have it in their power to collate and place before Government, in a shape that will admit of its utilization, a great deal of interesting and useful statistical information, and the opportunity of so doing afforded by the periodical examinations of the Registry Offices should not be lost sight of. It is especially desirable that all information relating to the selling price of land should be carefully compiled and communicated to the Survey Commissioner. (G. R. No. 2565, dated 5th May 1873.)

6. Officers in the Registration Department belong to a branch of the Revenue Department. The Inspector General of Registration and Stamps has, therefore, power under clause 15 of Rule 1 of the rules under the Arms Act to permit at his discretion Inspectors of Registration and Stamps and other officers under him who are required to travel about "in frontier or wild districts" to carry arms. (G. R. No. 8349, dated 14th November 1883.)

IX.—EXAMINATIONS.

1. No officer is to enter the Registration Department except under the general educational test.

The rules for the examination of subordinate establishments of Government in the Revenue, Magisterial and Police Departments are also to be applicable to the Registration Department, as regards the Committee before whom the examination is to be held, the time at which it is to be held, and the penalties for not passing.

In respect to the subject of examination, the Inspector General of Registration will prepare a set of twelve questions, and forward them in a sealed cover to the President of the Committee. Four hours will be allowed in which to answer them; the

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total number of marks attainable will be 300, of which the examinee must obtain not less than two-thirds to pass.

The examination for the office of special Sub-Registrar will be analogous to that which candidates for the office of a Sub-Magistrate have to undergo, and will be held before the Registrar of the District. (G. R. No. 2237, dated 12th May 1871.)

2. The duty of assessing the value of answers to questions set at the examination of subordinates in the Registration Department rests with the various Examination Committees at the different district centres, the Inspector General of Registration furnishing "a reply in manuscript paper" to the President of each Local Committee on the day following that on which the examination is held. The examination in Sind should be identical with that for the Presidency Proper and held on the same day. The Commissioner should make arrangements for it, the Inspector General supplying the papers of questions and answers. (G. R. No. 5708, dated 27th August 1887.)

3. No one who has not passed the general educational test should be employed even as a Kárkún under a Sub-Registrar. (G. R. No. 2724, dated 13th May 1873.)

4. It is at the discretion of a District Registrar, acting in his capacity as such, as the Collector of the District and as President of the Examination Committee, to determine in what cases respectable persons of a class not likely to enter the service of Government as Kárkúns, but for whom the more independent post of a Sub-Registrar would have many attractions, might be allowed to appear at the annual examination of the Registration Department. (G. R. No. 6989, dated 30th December 1873.)

5. An employé of the Registration Department is not entitled to claim exemption from the examination contemplated in Rule 82 of the Registration Departmental Rules by reason of the fact that he has passed the Special Lower Standard Examination in the Revenue Department. (G. R. No. 212, dated 12th January 1892.)

X.—FEES.

1. The payments into the treasury of the fees levied under the rules* under Section 91 of the Indian Registration Act, 1877, and Section 213 of the Bombay Land Revenue Code for regulating searches for, inspection of, and grant of extracts from or copies of, public documents should be checked by the Accountant General in the same manner as fines are treated. (G. R. No. 3603, dated 21st June 1876.)

* Printed at pp. 1-5 of the Compilation of General Rules.

2. There is no objection to process fees leviable under the Fee Table being levied in cash and credited to the Registration Department. (G. R. No. 1151, dated 4th March 1878.)

3. Fees on documents presented for registration should not be retained in the personal custody of any public officer longer than may be absolutely necessary, but should be dealt with in the same way as other public money and be paid at once into the nearest treasury.

In order to provide for refunds being made without unnecessary delay, the Local Governments, when a recommendation to that effect is made by the Inspector General of Registration or officer exercising the powers of an Inspector General of Registration, may allow to each Registering Officer a permanent advance of not more than Rs. 20, from which refunds may be made at once, bills in detail for the amount being afterwards submitted in the usual way. For large amounts the payments should be made only on bills at treasuries or sub-treasuries. (G. I., F. D., Nos. 125, dated 9th January 1874, and 1443, dated 14th March 1877; *vide* G. Rs. Nos. 364, dated 23rd January 1874, and 1818, dated 20th March 1877.)

4. The Mahalkari of Gubágar Petha in the Ratnágiri District is authorized to receive the registration fees, whenever they are paid, for transmission to the Chiplún Sub-Treasury. (G. R. No. 7945, dated 8th November 1890.)

5. In a case in which one party sold to another for a lump sum (Rs. 375) a piece of land together with a mortgage lien on another piece of land, and in which the value of the first piece of land was not stated, but the mortgage lien was Rs. 425, the question was raised whether for the purposes of the registration fee chargeable on the deed of conveyance under the Fee Table, the value or consideration should be deemed to be Rs. 375 or Rs. 375+425. It was held that the safest index was the amount of the consideration money stated in the deed.

In another case, in which certain immoveable property having incumbrances on it amounting to Rs. 200 was sold in auction sale for Rs. 16, a certificate of sale for Rs. 16 being granted by the Civil Court, the question was raised whether for the purposes of the registration fee chargeable on the certificate of sale under the Fee Table, the value or consideration should be deemed to be Rs. 16 or Rs. 16 + 200; and the following opinion was recorded by the Remembrancer of Legal Affairs :—

“The clear and obvious distinction between the two cases is that in the first the purchaser buys, not the land itself, but the mortgage lien on it. He steps into the place of the mortgagee. In the other case he buys the land subject to a debt on it which he is bound to pay. He steps into the place of the mortgagor, whose right, title and interest he has bought. What he really buys is nothing more than the mortgagor's equity of redemption. Now, the value of this equity of redemption must in most cases be a mere nominal value, being the value of the property mortgaged less the amount of the mortgage lien; and this value in an auction sale is shown by the highest bid, which in the present case was Rs. 16.

"The Civil Procedure Code provides that when property is ordered to be sold by public auction in execution of a decree, any incumbrance to which the property is liable shall be set forth in the proclamation of sale, and the Court is required to make special enquiry to discover any incumbrance. When any property is sold in execution of a decree, which is liable to any such incumbrance, the Code provides (Section 295) that the Court may, with the assent of the incumbrancer, order the property to be sold free from the incumbrance, giving the incumbrancer the same right against the proceeds of the sale as he had against the property sold. Otherwise the property is sold burdened with the incumbrance, and the purchaser is at liberty to take the incumbrance into consideration in bidding.

"What is actually sold in the auction sale is the land and not the mortgagor's equity of redemption; and therefore the highest bidding does not necessarily represent the value or consideration for which the land is actually purchased. It represents the price which is paid at the sale, but to make up the value or consideration this price must be added to the debt which constitutes an incumbrance on the property. Consequently, the debt is properly deemed part of the consideration, in respect whereof the transfer is chargeable with *ad valorem* registration fee as well as stamp duty." (L. R. Nos. 1082, dated 7th December 1878, and 1364, dated 9th November 1880; *vide* G. Rs. Nos. 6461, dated 14th December 1878, and 6376, dated 4th December 1880.)

6. When the value of an instrument which is chargeable with duty under the table of fees issued under Section 78 of the Registration Act, No. III of 1877, is expressed in pounds sterling, or pounds currency, the value of such money in the currency of British India should, for the purposes of the fee chargeable under the Registration Act, be calculated according to the scale laid down in Section 19 of the Indian Stamp Act of 1879, whereby one pound sterling or pound currency is regarded as equivalent to ten rupees. (G. I., H. D., No. 5-151, dated 30th January 1883; *vide* G. R. No. 1418, dated 20th February 1883.)

XI.—DOCUMENTS REQUIRING TO BE REGISTERED OR OTHERWISE.

1. A surrender of a lease is compulsorily registrable if the value of the lessee's right, title or interest is one hundred rupees or upwards, but not if it is less than one hundred rupees (*vide* Sections 17 (b) and 18 (a) of the Registration Act). (L. R. No. 1592, dated 29th November 1884; *vide* G. R. No. 9826, dated 12th December 1884.)

2. Receipts for money paid for land acquired (for public purposes) by private agreement are compulsorily registrable when the amount of consideration is one hundred rupees or upwards. In such cases clause (c) of Section 17 of Act III of 1877 is applicable, because the receipts are not mere receipts of money. They are the only written evidence of the agreement, and they show that the money is received on account of the assignment of the payee's right, title and interest in the property concerned. (G. R. No. 933, dated 31st January 1885.)

3. Receipts for money paid under awards under

the Land Acquisition Act, 1870, do not need to be registered. (G. Rs. Nos. 2766, dated 6th April 1883, 3025, dated 18th idem, and 9767, dated 24th December 1889.)

4. Receipts for sums of Rs. 100 or upwards paid to occupants of lands purchased for forest purposes should be registered, the charge of registration being met from the sum sanctioned by Government for taking up the lands. (G. R. No. 5175, dated 24th June 1885.)

5. Receipts passed by a mortgagee for payments made to him by his mortgagor in liquidation of the mortgage-debt do not require to be registered under clause (b), Section 17 of Act III of 1877, because the payments do not operate to affect the mortgagee's interest in the land; they merely reduce the sum due on the mortgage. (G. R. No. 2766, dated 6th April 1883.)

6. The registration of awards made under the Land Acquisition Act is not compulsory, but is only optional under the terms of clause (t) of Section 17 and clause (f) of Section 18 of the Indian Registration Act, 1877. (G. R. No. 1978, dated 13th March 1889.)

XII.—IDENTIFICATION OF EXECUTANTS, &C.

1. The Governor in Council desires specially to call the attention of all Registrars and Sub-Registrars to Rule* 39 of the Rules framed under Section 80 of the Registration Act, 1866, and to impress upon all Registering Officers the evils that might arise from any case in which a false personification had been admitted, and the hardships that might ensue therefrom in after years to the person or persons thus falsely personified, or their heirs. All Registering Officers should, before ordering registration of any document presented for registration, satisfy themselves, as thoroughly as possible, of the identity of the executants and securities. (G. R. No. 2808, dated 22nd July 1868.)

*Vide Rule 58 of the Rules under the Indian Registration Act III of 1877 printed at pp. 349-374 of the Compilation of General Rules.

2. Although the Registering Officer must satisfy himself as to the identity of the person admitting execution, care should be taken that he does not require evidence which cannot reasonably be expected, and the Inspector General of Registration should do all in his power to prevent unnecessary inconvenience being caused on this account. (G. R. No. 158, dated 9th January 1883.)

3. There is no authority for compelling executants to bring witnesses to identify from a distance, if such evidence as would satisfy a Court of Justice can be obtained on the spot. The inconvenience and cost of registration should not be increased by an unreasonable view of the requirements of the law and rules. (G. R. No. 8232, dated 8th November 1883.)

XIII.—INTERPRETATIONS AND LEGAL OPINIONS.

1. (Section 9).—It would seem to be difficult to frame a definition of 'moveable' and 'immoveable'

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property suitable for practicable use on a mere consideration of the physical nature of the property. It would appear to be necessary to take into account also the way in which the property is regarded and dealt with at the time of the transaction, and this is apparently what the framers of the Indian Registration Act, 1877, meant to do by using the words 'standing timber' in contradistinction to 'trees.' Certain trees being almost invariably used as timber, are commonly spoken of as 'timber trees.' But probably most trees would admit of being used both as timber and for other purposes. Thus, properly speaking, almost every tree being potentially timber and no tree actually timber, the question whether a tree is for the purposes of any transaction to be deemed to be 'timber' must depend upon the way it is regarded and treated in that transaction. If, for example, trees are sold with a view to their being cut down and removed, the sale is one of 'standing timber' within the meaning of the Registration Act. If, on the other hand, trees are sold with a view to the purchaser keeping them permanently standing and enjoying them by taking their fruit or otherwise, the sale would not, it is believed, on any construction of the Act, be regarded as one of 'standing timber,' but would be a sale of immoveable property. (G. I., H. D., No. 49—1812, dated 31st October 1884; *vide* G. R. No. 9211, dated 21st November 1884.)

2. The definition of immoveable property given in Section 3 of the Registration Act (III of 1877) must alone be looked to in determining, for the purposes of that Act, what is and what is not immoveable property.

'Ferries' are expressly included within the definition. A ferry is an exclusive right to carry persons and their goods across a river and to take payment for the service rendered. 'Tolls,' as they exist in this Presidency, are simply taxes on traffic on roads and bridges. There is no substantial similarity between ferries and tolls, and as 'tolls' are not specially named in the above definition, the fact that ferries are named therein affords no argument that tolls must be meant to be included also.

Tolls can only be held to fall within the definition if they are 'benefits to arise out of land.' This they cannot reasonably be said to be; they are simply taxes imposed under the authority of a legislative enactment, on traffic, and there is no more reason for classing them as immoveable property for the purposes of the Registration Act than for including *abkari* and opium taxes in the same category. (L. R. No. 981, dated 23rd July 1884; *vide* G. R. No. 6268, dated 4th August 1884.)

3. Wharfage fees are not immoveable property as defined in Section 3 of Act III of 1877. (L. R. No. 1109, dated 20th September 1881; *vide* G. R. No. 5649, dated 28th *idem*.)

4. (Section 5).—The third paragraph of Section 5 of the Registration Act, III of 1877, very clearly

provides that territorial changes shall take effect, after the date of the notification, on a day to be mentioned therein. In the face of this enactment, it is not possible for Government, by notification, to sanction or give validity to such changes retrospectively. (L. R. No. 846, dated 7th July 1886; vide G. R. No. 5028, dated 14th July 1886.)

5. (Sections 23, 24 and 34).—A document presented under Section 23 of the Indian Registration Act must be admitted free of penalty within the 4 months allowed by that section, and with penalty within 8 months under the terms of Section 34. A document presented with penalty under Section 24 may be admitted at any time free of further penalty within the 8 months allowed by that section, and with penalty after the 8 months have elapsed up to 12 months under Section 34. So that documents must be admitted within the 4 months to be free of all penalty, within 8 months with one penalty and within 12 months with two penalties. (G. R. No. 158, dated 9th January 1883; G. I., H. D., No. 36-1174-85, dated 1st September 1883; vide G. Rs. Nos. 7507, dated 8th October 1883, and 8853, dated 11th November 1884.)

* Cf. Sec. 25 of Act III of 1877.

6. (Section 25).—"Section 25* of Act VIII of 1871 makes special provisions for the registration of documents executed out of British India, and shows, therefore, that the fact of a document having been so executed is no bar to its registration.

† Cf. Sec. 34 of the Indian Stamp Act, 1879.

"The Registration Act does not require the Registering Officer to enquire into the sufficiency or validity of the stamp borne by any document presented to him for registration; but Section 18† of the General Stamp Act provides that 'no instrument chargeable with stamp duty * * * shall be registered by any officer acting under any law for the registration of assurances * * * unless such instrument bears a stamp of a value not less than the amount of the duty with which it is chargeable under any law in force in British India at the time of its execution.'

"The question is, therefore, whether the bond referred to by the Collector was chargeable with stamp duty under any law in force in British India at the time of its execution.

"The bond appears to have been executed in the Nizam's territory and is, therefore, governed by the law of that territory as to the stamp it ought to bear (see VII Bom. H. C. R., 140, A. O. J.) and it is no part of the duty of the Registering Officer to ascertain whether the requirements of that law have been fulfilled or not. But if the bond relates to some property in British India, it is liable to stamp duty under Section 4,† Act XVIII of 1869, also, and it is incumbent upon the Registering Officer to refuse to register it unless it bears the proper British Indian stamp." (L. R. No. 489, dated 20th May 1876; vide G. R. No. 3273, dated 2nd June 1876.)

‡ Cf. Sec. 5 (c) of the Indian Stamp Act, 1879.

7. (Section 27).—A Collector having raised the question whether the execution of two documents, each

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creating an interest under Rs. 100 in immoveable property, in place of one document for the total amount, is not a contravention of Section 27 of the Stamp Act rendering the documents inadmissible in evidence, the following opinion (No. 1029, dated 21st September 1888) was recorded by the Remembrancer of Legal Affairs :—

“It is very possible that the object of executing two documents instead of one was to avoid the expense, as well as the publicity of registration.

“But Section 27 requires only such facts and circumstances as affect the chargeability of an instrument with *duty* to be set forth.

“‘Duty’ is the amount chargeable under Schedule I of the Stamp Act, and does not include registration fees which are levied not as a source of revenue, but for services performed and benefits received.

“The provisions of Sections 49 and 50 of Act III of 1877 declare the consequences of non-registration.

“Each of these documents creates an interest under Rs. 100 in value. Neither of them is inadmissible in evidence to prove either of such charges. But neither of them would avail against a registered mortgage, and their separate operation is quite different from what the effect of one mortgage for their combined amount would be. A mortgage for the combined amount would be indivisible, whereas each of these mortgages may be separately redeemed.

“As they do not profess to operate as *one* document for the combined amount would operate, there is nothing to prevent their admissibility in evidence though their *operation* is subject to the provisions of the Registration Act giving preference to any registered charges in existence relating to the same property.”

(G. R. No. 7000, dated 20th October 1888.)

8. (*Section 33*).—Section 33, clause (c) of Act III of 1877 does not require that the (registration) power of attorney in cases in which the principal at the time of execution resides in a Native State should be executed before a British Court, Judge or Magistrate, but before *any* Court, Judge or Magistrate. A power of attorney executed before and authenticated by a Native Court, Judge or Magistrate of a Native State should, therefore, be accepted by the registering officer. (L. R. No. 594, dated 9th May 1885; *vide* G. R. No. 4172, dated 23rd idem.)

9. (*Part X*).—A question having been raised whether a party consenting, in writing below a deed primarily executed by another party, to the contents of that deed should be viewed as an executant thereof, the following opinion (No. 1112, dated 24th August 1887) was recorded by the Remembrancer of Legal Affairs :—

“In the document, of which a translation has been sent to me, R has not executed the principal instrument in which H sells certain property. But he has executed a second instrument whereby he gives his assent to H’s sale, and if he chooses to register this second instrument he is at perfect liberty to do so.

“His registration, however, of the instrument executed by himself cannot have the effect of making H’s instrument ‘a registered document’ for the purposes of Part X of the Registration Act, albeit it may be necessary to copy it out

under Section 52, as forming an integral part of R's instrument.

"When endorsing registration on the document, the Sub-Registrar should, I think, make it clear that it was R's instrument that was registered and not H's."

(G. R. No. 6128, dated 10th September 1887.)

10. (*Section 75*).—On comparing the provisions of the new Registration Act III of 1877 with those of the last one (VIII of 1871) it appears that the powers of a Civil Court with which a Registrar is now invested by Section 75 of Act III of 1877 are new. Section 36, on the other hand, is the same in both Acts. If, therefore, it had been intended that the issue of process by Registrar, when acting under Section 75 of the new Act, should be done vicariously as in the instances for which Section 36 provides, it would have been so stated. Nothing could have been easier than to state that the Registrar should obtain the issue and enforcement of summonses, &c., in the manner prescribed by Section 36. In the absence of any such provision, it seems that Section 75 of Act III of 1877 must be interpreted quite independently of Section 36. Another reason which leads to this opinion is that clause 4 of Section 75 provides in itself complete powers for procuring the attendance of witnesses and requiring them to give evidence without reference to any other authority. For the purpose of any enquiry under Section 74, the Registrar is invested with the powers of a Civil Court (whose functions he is in fact now required to discharge, subject to a right of action against his order), and he should exercise those powers, as a Civil Court does, through the agency of his own subordinates. (L. R. No. 1125, dated 28th September 1877; *vide* G. R. No. 6063, dated 8th October 1877.)

11. Section 75 of the Act provides that the Registrar may summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court. It also provides that he may direct by whom the costs of the enquiry shall be paid, and that such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. When a Registrar directs that the costs of an enquiry under Section 74 of the Registration Act shall be paid by a certain party, he should proceed, as if he were a Civil Court, to recover the costs by the agency of his own establishment, and should follow as nearly as possible the procedure laid down in the Civil Procedure Code. The Registration Act contains no provision for enabling the Registrar to send his order to a Subordinate Judge for execution. The Registrar himself has the powers of a Civil Court. The only case in which a Registrar could send his order for execution to any other Court would be when the order could not be executed within his own district, for which case provisions are made in Section 223 of the Civil Procedure Code. (L. R. No. 314, dated 4th April 1878; *vide* G. R. No. 1882, dated 12th *idem*.)

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12. A question having been raised as to how a direction made by the Registrar of Bombay, under Section 75 of the Registration Act, 1877, for the payment of the cost of an enquiry held by him under Section 74, should be executed, the following opinion (No. 78, dated 1st December 1886) was recorded by the Advocate General :—

“The High Court and not the Small Causes Court is the proper Court to execute the Registrar’s direction as to costs, inasmuch as the ‘case’ was not one ‘cognizable’ (which I interpret to mean ‘cognizable’ *quoad* the ‘cause of action’ and not the amount of costs to be recovered) by the latter Court.

“The proper course accordingly is for the decree-holder or his attorney to apply to the Sitting Judge of the High Court in Chamber, under Rule 10 (sub-clause ‘J’), upon notice to the Prothonotary, for the issue of an order for execution. The Registrar should also be notified to produce the proceedings upon such application.

“There can be no objection to the decree-holder or his attorney being informed to the above effect, and it will be for them to move in the matter as disposed or advised.”

(G. R. No. 8709, dated 10th December 1886.)

13. (*Section 82.*)—“An agriculturist executed a document compulsorily registrable under Section 11 of Act XXIII of 1886, amending Chapter VIII, Section 63 of Act XVII of 1879 (the Dekkhan Agriculturists’ Relief Act). Such documents have to be produced before a Sub-Registrar who is then bound to act in accordance with the procedure prescribed for a Village Registrar (*vide* Section 11 of Act XXIII of 1886 and Section 59 of Act XVII of 1879).

“Rule 15B made under Section 61 of Act XVII of 1879 (the Dekkhan Agriculturists’ Relief Act) is published at page 1147 of the *Bombay Government Gazette* for 1884 (Notification No. 8423).

“It requires the Village Registrar to enquire and ascertain whether the instrument about to be executed will modify or wholly or partly supersede any previous instrument, and if the parties answer in the negative, the Village Registrar will make an endorsement accordingly.

“In the case now under reference, the intending executant was accompanied to the Sub-Registrar’s office by one R., the *brother* of S., the person in whose favour the document was to be executed.

“R. gave his name as S., and assured the Sub-Registrar that the intended document would not affect any previously executed document.

“It appears that R. had no dishonest motive. But as Section 57 as amended by Section 13 of Act XXIII of 1881 requires any relation of an obligee so appearing to produce a power of attorney, R. seems to have personated his brother merely to save trouble and expense.

“The Inspector General seems to think that Section 63 A of the Dekkhan Agriculturists’ Relief Act (*vide* XXIII of 1886) is incorporated by reference in the Registration Act III of 1877, and that, therefore, such false personation or statement is

punishable under Section 82 of the Registration Act.

“The Sessions Judge held that Section 82 of Act III of 1877 applied only to proceedings or inquiries under that Act, and not to proceedings, &c., under the Dekkhan Agriculturists' Relief Act.

“This finding seems reasonable.

“It is further to be noted that Rule 15 B, under which a statement of the nature made by R. is required, is made under Section 61 of Act XVII of 1879.

“No penalty could attach to a false answer to any inquiry under that rule—

(a) because Section 61 of Act XVII of 1879 empowers the Inspector General to make rules only to regulate the proceedings of his subordinates and not to impose duties on the public ;

(b) Rule 15B prescribes only the duties of the Village Registrar, and no provision of law imposes a corresponding duty on the person interrogated.

(c) Section 63A (Section 11—XXIII of 1886) merely imposes additional duties on the Registrar under Sections 57 and 59 of the Dekkhan Agriculturists' Relief Act, and does not make those inquiries a part of the Registration Act III of 1877, which is only to be followed *after* the procedure prescribed by the Dekkhan Agriculturists' Relief Act has been followed.

“For these reasons I do not think any offence has been committed under the Registration Act.

“The High Court would, I think, certainly decline to exercise revisional powers in such a case, and if an appeal were made, I think, it would fail.

“The Inspector General says this case is one of little moment, and apparently there was no *mala fides*.

“I do not think, therefore, any steps should be taken to interfere with the Sessions Judge's decision.

“I do not think that in this case a conviction could be had under Section 182, Indian Penal Code, as the intention of the accused was to save himself and his brother trouble, and not to cause the Registrar to do what he ought not to do.

“Should any case of real *mala fides* occur in future, such as the Inspector General suggests in paragraph 3 of his letter, I think that Section 182 and Section 471 of the Indian Penal Code would be the appropriate sections under which a conviction might be obtained.” (L. R. No. 1008, dated 14th September 1888; *vide* G. R. No. 6676, dated 6th October 1888.)

14. (Section 90d).—A question having been raised whether the ninety-nine years' leases issued to villagers for land in the village *gáontháns* require to be registered or not, the following opinion (No. 139, dated 31st January 1888) was recorded by the Remembrancer of Legal Affairs :—

"I do not think that leases by Government in the form forwarded require registration. The form simply evidences the grant by Government of an interest in land, and is, therefore, exempt from registration under Section 90 (d) of Act III of 1877.

"I observe, however, that the Inspector-General's letter No. 108 of the 27th May refers to kabuláyats executed by the lessees. No specimen of these has been sent to me, and without seeing one I can express no opinion as to the necessity, or otherwise, of registration.

"At the same time I doubt whether there is any necessity to take any kabuláyats at all. It seems to me that if the signature of the lessee were simply taken in a register acknowledging that he had received a lease in the prescribed form, but containing no promise to abide by its terms, it would for all practical purposes afford sufficient proof of his acceptance of the lease and avoid all difficulties about registration."

(G. R. No. 1309, dated 24th February 1888.)

15. (*Sections 90, 91.*)—An inámdár may do as he likes with his own private records. He can allow inspection of them or not, and give copies of them or not, as he pleases, and charge whatever anybody will agree to pay for any privilege he may allow him.

But Sections 90 and 91 of the present Registration Act (III of 1877) certainly do not apply to private but to public records. The records to which they refer are:—

(a) Documents which form part of the records of a land-revenue settlement,

(b) Documents and maps which form part of a survey record,

(c) Documents which under any law for the time being in force, are filed periodically in any revenue office by any officers charged with the preparation of village-records, and

(d) Registers of sanads, inám, title-deeds, &c.

It seems that no documents of the class (c) exist in this Presidency, and the documents named in classes (a), (b) and (d) are all public documents, and cannot, in any case, be the property of Inámdárs. Any of them which may happen to be prepared by hereditary officers are distinctly declared by Section 70, Bombay Act III of 1874, to be the property of Government, but for the most part these documents appear to be such as would be prepared by the Survey Department or in the Collector's or Mámlatdár's offices.

There is no legal sanction for the levy of fees for the inspection or grant of copies of any village records other than those comprised in one of the four classes named in the last paragraph, but it is of course competent to Government to authorize the charging of such fees as they deem fit for any copy of a public record, or for any inspection of a public record which they allow to be had or made. All fees so charged must unquestionably be credited to Government. If in any case an Inámdár, or the agent or servant of an Inámdár, is an officer of Government, and in his official capacity has charge

of public records, he is bound to account to Government for all fees he may receive for allowing inspection, or granting copies of such records. But unless in some official capacity, it is understood that no Inámdár can have charge of any public documents.

Under Section 76 of the Indian Evidence Act, 1872, it is only 'public officers' who can grant certified copies of public documents. Copies certified to be true copies by an Inámdár, as Inámdár merely, could not be used as evidence. (L. R. No. 164, dated 21st February 1878; *vide* G. R. No. 1111, dated 1st March 1878.)

XIV.—MISCELLANEOUS.

1. *References to Law Officers.*—The Registrar General should be careful not to have recourse to the Law Officers of Government except in cases of real importance or emergency, or which are likely to be quoted as precedents, establishing a general rule. (G. R. No. 4798, dated 19th December 1866.)

2. *Summons.*—Under Section 36 of the Indian Registration Act, 1877, His Excellency the Governor in Council is pleased to direct that for the purpose of the said section registering officers may call upon the nearest Magistrate to issue a summons whenever in their discretion they shall deem it necessary. (G. R. No. 1152, dated 4th March 1878.)

3. *Commissions.*—The proviso to Section 33 and Section 38 of the Registration Act merely prohibit Registering Officers from requiring the personal appearance before them of the persons therein described. Subject to this exception ('save as aforesaid') Section 39 applies the law in force in Civil Courts as to summonses, commissions and compelling the attendance of witnesses, *mutatis mutandis* to summonses and commissions issued and persons summoned to appear under the provisions of the Registration Act. So far as regards commissions, the intention is that, except as is otherwise provided in Sections 33 and 38, they should be issued in the same instances in which they could lawfully be issued by a Civil Court. (L. R. No. 1074, dated 10th September 1879; *vide* G. R. No. 4999, dated 18th idem.)

4. *Office for deposit of declarations of persons desiring to obtain a domicile in British India.*—In supersession of Government Notification No. 2006, dated 28th June 1865, published at page 1280 of the *Bombay Government Gazette* of the 29th idem, His Excellency the Right Honourable the Governor in Council is pleased to fix the office of the Registrar of Bombay as the office for the deposit of declarations of persons desiring to obtain a domicile in British India. (G. N. No. 4392, dated 20th August 1880.)

1. The following extract from a Despatch from the Secretary of State for India, No. 44, dated 13th May 1880, was communicated by the Government of India to the Government of Bombay with a request that the suggestion therein made may be adopted, as far as possible, in the preparation of the Revenue Administration Reports :—

“ I would suggest that it would be convenient if much of the valuable information given in these reports were thrown into the form of percentages. By giving, for instance, the percentage of coercive processes to the total number of revenue payers, of estates transferred to the total number of estates, the percentage of increase or decrease of occupancy rights and the like, comparison will be more readily made of the condition in these respects of the Provinces as a whole from year to year and of the different districts.”

G. I., H. R. & A., No. 1-267, dated 13th June 1880; *vide* G. R. No. 3401, dated 1st July 1880.)

2. It should not be forgotten that an administration report is intended to show what has been done, and that any changes which it is thought should be made, except such as are very intimately connected with the explanation of the results of the administration, can be more fully and more advantageously discussed in special reports. (G. R. No. 7476, dated 9th December 1881.)

3. It is contrary to rule to discuss, in administration reports, orders issued by superior officers or by Government. If it is believed that good reasons can be shown for the reconsideration of any orders, the reasons should be stated fully and clearly in separate letters. (G. R. No. 7458, dated 6th October 1883.)

4. All heads of offices should adopt the suggestion * of the Government of India as regards the

*Letter from the Government of India, Revenue and Agricultural Department, No. 64 G., dated 2nd November 1882 :—

“Some inconvenience having been experienced from the absence of maps in administration and other reports, whether submitted to the Government of India or published in the province, I am directed to ask whether, in the opinion of His Excellency the Governor in Council, there will be any objection to the insertion, in every report of the kind, of a map of the province, district, &c., to which the report relates.

“2. The Surveyor-General is prepared to supply skeleton maps for this purpose of the same size as the page of the report. This, in the opinion of the Government of India, will be the most convenient plan. The trouble of unfolding a map placed at the commencement of a report, or folded in a packet, often prevents reference to it.

“3. It may also be found convenient to repeat the insertion of the skeleton map, with such variations as may be required, opposite the page in which the special subject to be illustrated by the map is described. Thus, if irrigation is the subject to be illustrated, the map might be made to show by different colours the percentage of irrigation in each part of the province or district. Or, again, one map may be made to exhibit the system of roads, another the system of railways, a third the system of canals, and so on, the skeleton in all cases being the same.

“4. Should His Excellency the Governor in Council have no objection to allow the course now suggested to be adopted, the Surveyor-General will be placed in direct communication with the Government of Bombay for the purpose of supplying the necessary maps.”

insertion of maps in administration and other reports published in this Presidency or submitted to the Supreme Government.

As regards the Bombay Presidency, the preparation of the skeleton maps required can much more conveniently be undertaken by the Photozincographic Office than by the Surveyor General. Government are accordingly pleased to direct that all heads of departments should indent for skeleton maps of the size and kind required by them on the Photozincographic Office at Poona, which will also reproduce them after the special details furnished by the several departments to illustrate facts in their reports have been filled in. Arrangements must always be made for the re-printing, reproduction or re-construction, in the Photozincographic Department, of all maps, diagrams, &c., that may be required by the various departments and officers for embodiment in their annual and other reports. To facilitate this, it is desirable that the officers and departments requiring the maps, &c., should give clear instructions on each map to be printed as to the extent of country and detail to be shown, the size of the map, the colour to be used in printing the maps, and such other points as may seem to require explanation.

If in any case the Superintendent, Photozincographic Office, has reason to believe that skeleton maps exist in the office of the Surveyor General, he may obtain copies from that office if such a course appear to him to be more economical and expeditious.

As regards the size of the maps, the view* of the Government of India should be accepted wherever the object of the map can be attained under the condition that it should be of the same size as the page of the report. In cases, however, where the adoption of this course is considered impractical, the size of the map can be enlarged. (G. Rs. Nos. 4695, dated 21st June, 5633, dated 31st July, and 7936, dated 26th October 1883.)

5. The Government of India has no desire to prescribe either the scale or the subjects which are to be illustrated in maps required for Provincial purposes. These will vary from Province to Province, and experience will show how far it is possible to go in the elaboration of details. But for its own requirements the Government of India, in the Revenue and Agricultural Department, wishes the maps which are intended to illustrate reports to be skeleton maps in the true sense of the word, and is unwilling that either Provincial or District maps should be burdened with topographical detail, or confused by the attempt to show administrative arrangements of too minute a nature. In district (maps) it will be ordinarily sufficient if no subdivisions smaller than the Tahsil boundary be shown. Topographical detail should be omitted as far as possible, and skeleton maps should be prepared which will render it easy to indicate by the use of colour facts regarding soil, climate, the depth of water, and other points of cognate interest. (G. I., R. &

* See foot-note on page 1.

A., No. 95-54-1, dated 11th February 1887; *vide* G. R. No. 6445, dated 23rd September 1887.)

6. The following orders may be considered as supplementary to those issued in the Home Department No. 28, dated 15th July 1887,* the general

* "The subject of discussion in the papers cited in the preamble is the preparation and printing of annual departmental reports submitted to the Government of India in the Home Department. In a letter No. 392 S., dated the 22nd June 1885, the Government of the Punjab solicited a reconsideration of the whole question of the preparation and treatment of annual reports, so far as that Province was concerned. The alterations suggested by Sir Charles Aitchison and the views provisionally held by the Government of India on the question are summarized in the Home Department Resolution of the 12th August 1885. But as the subject was not one of merely local importance, the Governor General in Council desired, before coming to a final decision, to have a full expression of the opinions of Local Governments and Administrations upon the proposals of the Punjab Government, so far as they affected the reports which are submitted to the Home Department. The replies from Local Governments and Administrations, read in the preamble, contain their opinions on the matter.

" 2. The proposals of the Punjab Government were made with the double object (1) of removing the burden thrown upon district officers, heads of Departments, and Secretariat establishments in connection with the preparation and reviewing of annual reports; and (2) of reducing the cost of printing the reports. These proposals have not been accepted in full by any local Government or Administration, except by the Chief Commissioner of Burma; and Mr. Crosthwaite, the present Chief Commissioner of that Province, holds, as his reply from the Central Provinces shows, different views from those held by Sir Charles Bernard. The Governments of Madras, Bombay and Bengal have, to some extent, accepted the proposals in question, and the Chief Commissioner of Coorg has expressed his opinion generally in favour of having statistical tables, accompanied by notes, for two years, and in the third year a set of comprehensive departmental reports.

" 3. The most adverse criticism of the proposals made by the Punjab Government proceeds from the Government of the North-Western Provinces and Oudh, from the Administrations of the Central Provinces and of Assam and from the Resident at Hyderabad. The Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh is of opinion that the presentation of evidence of departmental efficiency and the collection, in a convenient form, of information useful for administrative and other purposes cannot be secured under a system of triennial reporting with intermediate statistical tables and brief explanatory notes. He considers that, as was suggested in paragraph 7 of Home Department Resolution of 12th August 1885, the brief notes would probably be of little practical value, while the triennial report would necessarily be prolix and involve much labour in its preparation. The latter, moreover, would be four years old before the orders of Government could be passed or any subsequent action taken upon it. Sir A. Lyall observes that the labour of scrutinizing statistics is little augmented by that of writing a report on them, and that a careful scrutiny and comparison of past and present returns is a necessary part of the duty of the heads of departments in administering. But, while opposed to the general adoption of the proposals of the Punjab Government, Sir A. Lyall would meet them to some extent by doing away with reports on certain subjects and by substituting for them statistical tables accompanied every year by a brief commentary in the form of notes, such as is now supplied by the Local High Courts of Judicature in reviewing the Criminal and Civil Justice returns.

" 4. Mr. Crosthwaite, at the time Chief Commissioner of the Central Provinces, concurs in the views of the Government of the North-Western Provinces and Oudh in regard to the small amount of labour required to write a report, when once the relevant statistics have been systematically studied. He remarks that the system of writing reports is useful, inasmuch as it ensures that statistics have been scrutinized, and that it enables

principles expressed in which may be applied to

the Government to see how much care and intelligence have been devoted to this scrutiny. Reports, moreover, in Mr. Crosthwaite's opinion, enable administrative officers to periodically survey the whole of their work and to judge of the effects of it, while they assist Government in seeing how far the recognized principles of administration have been applied and how far errors require to be corrected. If for annual reports triennial reports were substituted, there is, he thinks, likely to be the disadvantage that the officer who had done the work would not ordinarily write the report, or, if he did, that his recollection of the facts regarding which he was writing would have grown dim with time. Under such a system, too, errors of administration could not be corrected at once. Mr. Crosthwaite admits that reports and reviews are often unnecessarily prolix and should be curtailed, and he suggests that the extended distribution of reports which at present prevails is unnecessary and expensive. He also deprecates the style of review which merely repeats, in other and perhaps fewer words, what is stated in the report.

"The Officiating Chief Commissioner of Assam considers that the proposals of the Punjab Government are unsuitable to that Province, and would lead to serious practical inconvenience. Mr. Ward is of opinion that the value of reports to departmental officers would be lost by triennial reports, while the labour of compiling the latter would be very great, particularly to officers who had held their charges only for a small portion of the three years.

"The Resident at Hyderabad doubts if the proposed reform would have an useful effect, and argues that the review of the year's transactions by the head of the Government affords an incentive to work. Praise or blame, in the Resident's opinion, loses its effect if it relates to a time long passed away. The officer concerned may have left the locality, and it does not always happen that an officer remains at his post for the whole three years for which he would have to write the report.

"5. The opinions briefly summarized above confirm the view taken by the Government of India in the Home Department, as expressed in the Resolution of the 12th August 1885, that it was not possible to go as far as was proposed by the Punjab Government in the direction of curtailing the preparation and submission of annual reports. After giving the subject full consideration the Government of India agrees in the main with the remarks made by the Government of the North-Western Provinces and Oudh and the present Chief Commissioner of Burma regarding the usefulness of annual reports as a means of testing departmental efficiency and the judgment and energy of officers, and also of checking and correcting administrative mistakes. Applying this principle, the Governor General in Council is of opinion that annual reports must be maintained in the two following cases:—

(a) Where the reports deal with the application of administrative principles still open to modification or the concrete working of which has to be watched.

(b) Where the reports contain statistics which for administrative purposes must be compiled and examined annually.

"These two heads comprise so many of the reports now falling under the cognizance of the Home Department that the conclusion to which His Excellency in Council has come is that, beyond insisting on brevity and methodical arrangement in the reports themselves, and on curtailment of reviews of them, it is impossible to afford much relief to Local Governments in the direction contemplated by this enquiry. The Government of India, therefore, desires that the reports dealt with in the Home Department should from 1887 onwards be treated in the following manner:—

(i) To be submitted annually as heretofore:—

	Report on General Administration.
"	Municipal Administration.
"	Local Boards' Administration.
"	Education.
"	Sanitation.
"	Civil and Criminal Justice.
"	Jail Administration.
"	Police Administration.
"	Lunatic Asylums.

reports submitted to the Government of India in the Revenue and Agricultural Department. The reports thus submitted are concerned with the subjects enumerated below :

- (1) Land Revenue Administration.
- (2) Forest Administration.
- (3) Land Records and Agriculture.
- (4) Court of Wards and other estates administered by Government.
- (5) Horticultural and Botanical Gardens.
- (6) Experimental Farms.
- (7) Trade Statistics, Quarterly and Annual.
- (8) Colonial and Inland Emigration.

(ii) To be submitted in full every third year, statistical returns and brief commentaries in the shape of notes being submitted in the intermediate years :—

Report on Registration.

” Dispensaries.

” Lock-Hospitals.

” Vaccination.

” Destruction of wild beasts and snakes.

“The notes to be submitted with the statistical returns in the years intermediate between the submission of the reports should give a clear, though brief, indication of the supervising or controlling officer's opinion as to the significance of the statistics.

“6. The following special reports should continue to be submitted as before :—

Chemical Examiner's Report.

Report on Calcutta Medical Institutions.

Report of the Port Health Officer, Calcutta.

Report of the Commissioners of the Town of Calcutta.

Report on Publications under Act XXV of 1867.

The Review of Publications.

The Report on Vernacular Newspapers.

“The Government of India leaves to Local Governments, who submit reports on Legal Affairs and Criminal Tribes, discretion to determine whether these reports shall be annually prepared as at present, or prepared every third year, with brief notes in the intermediate years.

“7. The Governor General in Council would desire to express his earnest hope that Local Governments and Administrations will insist on curtailment of reports to the utmost extent which is consistent with a proper examination of the facts and figures presented in them. A reduction in the size of the reports on Jails, Police, Education and Sanitation is especially necessary. In most Provinces these reports have become far too discursive.

“Compression of reviews is not less called for than curtailment of reports : a review should contain only what is necessary to communicate the judgment of the reviewing authority regarding the salient features of the report. The Governor General in Council attaches no value to reviews which merely repeat in abridged form what is set forth in the report reviewed.

8. While thus recognizing the need which exists for compression in the reports and reviews which reach the Government of India, His Excellency in Council is no less desirous that the same principles should be carefully followed as regards reports received by Local Governments and Administrations, but not forwarded to the Government of India. He fears that the time of administrative and executive officers is unnecessarily occupied as much by the preparation of reports and returns submitted for the information of the local authorities as by the preparation of those which reach the Government of India. He has therefore observed with satisfaction that the Government of Bengal has recently, in connexion with the Report of the Salaries Commission, directed its attention to this aspect of the case ; and he trusts that all other Local Governments and Administrations will exercise a vigorous discretion not only in reducing the bulk of the reports and returns which are retained, but also in abolishing those that are not really required.” (G. I., H. D., No. 28-1579-95, dated 15th July 1887; *vide* G. R., G. D., No. 2426 dated 17th August 1887.)

2. *Land Revenue Administration and Forest Administration Reports.*—The Government of India concurs with the general opinion expressed in the replies which have been received that no material alteration should be made in the preparation of the Land Revenue Administration and Forest Administration Reports; and that these should continue, as at present, to be annually submitted.

3. *Report of the Department of Land Records and Agriculture.*—The annual publication in every Province of the Report of the Department of Land Records and Agriculture in the form prescribed in Circular Resolution No. 54A., dated the 28th April 1884, is, in the opinion of His Excellency in Council, essential for the purpose of indicating the progress which may be annually made by the Department of Land Records and Agriculture in connection with the measures adopted in pursuance of the recommendation of the Famine Commissioners in each portion of the Empire. The report consists of two main divisions—Land Records and Agriculture—and is designed to show the executive work of the Department, not to comprise discussions on administrative measures, or to contain any description or summary of the economic or agricultural circumstances of the season. The Local Government may, however, require information of this kind to be submitted by the Department to the Chief Revenue authorities of the Province, for utilization in preparing the Land Revenue Administration Report, and may prefer that for that purpose it should be included in the land record section of the Departmental Report, rather than be submitted by independent communication. There will be no objection to this course. But there seems to be no reason why statistical statements concerning crops, irrigation, tenures, &c., should find a place in the Report of the Department as well as in the Annual Land Revenue Administration Report, to which latter they should, in the opinion of His Excellency in Council, be confined. The Agricultural section of the Departmental report should be restricted to an account of the executive operations of the Departmental officers, and to a brief description of, or reference to, any results of special interest which may have been obtained during the preceding twelve months, whether in farms, gardens, Government estates, or otherwise, but should avoid lengthy discussions on agricultural subjects and need not contain any detailed examination of the working of gardens, farms, or other agricultural institutions, which should be dealt with in the Department by orders on the annual reports. In accordance with the above remarks, His Excellency in Council is of opinion that no other review of the Annual Report of the Director of the Department of Land Records and Agriculture than that which may be included in the review by the Local Government of the Land Revenue Administration Report is necessary; and that it will suffice if a copy of the Report, together with any orders which may be

passed thereon, is submitted for the information of the Government of India. (*Vide* also para. 5 of G. I., R. & A., No. 2664-91, dated 4th November 1891, embodied in the preamble of G. R. No. 10074, dated 23rd December 1892.)

4. *Report on Court of Wards and other estates administered by Government.*—Much importance is attached by Her Majesty's Secretary of State, as well as by His Excellency in Council, to the manner in which estates under Government management are administered, and to the use made of the opportunities afforded by them for ascertaining the economic condition of the agricultural population. Reports on such estates should, in the opinion of the Government of India, continue to be annually prepared. These and not the reports of the Department of Land Records and Agriculture should contain an account of any agricultural improvements that may have been introduced.

5. *Annual Reports on Horticultural and Botanical Gardens.*—These may, as already indicated, be dealt with departmentally, and need not, in the opinion of the Government of India, be reviewed at length by any higher authority than the Director of the Department of Land Records and Agriculture, or other controlling officer, but should be forwarded to the Government of India for information, with a copy of any orders that may have been passed on them by the Local Government. A representation recently received through the Secretary of State from the authorities at Kew, as to the utility of such reports, indicates the advisability of their maintenance as a record of useful or interesting facts and experiments.

6. *Reports on the Experimental Farms* are divided into two sections—Statistical and Administrative—the former are issued yearly, or half-yearly, and should, under existing orders, be distributed by Departments of Land Records and Agriculture direct to the Government of India, other provinces, and Agricultural institutions. They should continue to be prepared, but require no review or orders by the Local Government. The complete reports, including the Administrative section, will be dealt with in the same manner as reports on gardens.

7. *Internal Trade Statistics.*—The quarterly and annual returns are, under existing orders, distributed and briefly reviewed by the Department of Land Records and Agriculture, or by such other authority as may be responsible for them. In future the annual report on Internal trade may, in the opinion of His Excellency in Council, be dealt with in the same manner as reports on sea-borne trade; and no further review will be required from Local Governments and Administrations.

8. *Reports on Colonial and Inland Emigration* should be retained in their present form. (G. I., R. & A., No. 52 G.-69-6, dated 14th September 1887; *vide* G. R. No. 6947, dated 8th October 1887.)

7. The remarks and orders contained in the Resolution of the Home Department of 15th July 1887 (G. R., G. D., No. 2426, dated 17th August 1887), which are confined to reports furnished to that Department, seem to apply equally to the annual reports upon subjects administered in the Finance and Commerce Department. The general opinion of the Local Governments who were consulted on the subject is opposed to any considerable curtailment of reports bearing on revenue matters. The administration of Provincial revenues is left so much in the hands of Local Governments and they are also financially so greatly interested therein, that it is not in the opinion of the Government of India expedient to restrict the Provincial authorities with respect to the information they may consider it desirable to collect and to place on record regarding them.

In the case of Opium and Salt Administration Reports, the fiscal interests involved are of such great importance that, even if the fullest information were not necessary for the purposes of the Local Governments, annual reports would be required by the Government of India in order to enable it to watch the administration of the revenue. These reports should therefore be as full as possible without being prolix, and should be furnished to the Government of India annually, as at present.

As regards the reports on Stamps, the Governor General in Council has no objection to their being prepared and submitted triennially by any Local Government which considers this sufficient. Statistical information only would in this case be submitted in the intermediate years. The reports on the External Land Trade may also be submitted triennially in the same way, the monthly statistics of the trade being transmitted to this Department as at present.

The remarks contained in paragraph 5 of the Home Department's Resolution on the necessity of methodical arrangement are specially applicable to the reports submitted to this Department. In reports bearing on revenue matters and trade, comparisons with past years are of special value; but these are rendered difficult unless a systematic arrangement is observed in the subjects dealt with.

The Excise reports should in all cases be prefixed by a concise description (which may be repeated from year to year) of the various systems on which the excise is administered in the province concerned, and the extent to which each system applies. There is necessarily in such matters much diversity of practice, and the value of the reports is occasionally diminished by the use of technical terms, whose precise signification is little known beyond the limits of the province, and is often different in different provinces. Explanatory maps showing the extent to which the various systems apply and illustrative

REPORTS.]

of other details of Excise administration should also be appended to the Annual Excise Reports of all Provinces. A few spare copies of the maps in addition to those bound up with the report should be sent to the Department of Finance and Commerce of the Government of India.

(G. I., F. & C., Nos. 4417, dated 23rd August 1887, and 3895, dated 29th July 1889; *vide* G. R., G. D., No. 3124, dated 7th October 1887, and G. Rs. Nos. 769, dated 10th November 1887, and 6055, dated 19th August 1889.)

8. The supply of publications required for use in the Finance and Commerce Department of the Government of India should be regulated in accordance with the subjoined Statement A, and the supply of the publications specified under the head B at the foot of the statement should be discontinued:—

A. (PUBLICATIONS TO BE SENT.)

Name of Publication.	(a) Number of copies to be sent to Simla dur- ing April to October.	(b) Number of copies to be sent to Calcutta throughout the year.	Remarks.
Bombay Proceedings -			
Financial	1	...	
General Department (Municipal).	1	...	
Revenue (Miscellaneous) Department	1	...	
Revenue (Confidential)	1	...	
Marine Department	1	...	
Civil Lists	5	...	
Acts	8	8	
Bombay Council Proceedings	1	1	
Gazette	1	1	
General Administration Report.	1	1	
Excise do. do. .	3	2	
Income-tax do. do. .	3	2	
Opium do. do. .	3	2	
Salt and Continental Customs Report... ..	3	2	
Sind Salt Administration Report.	6	2	
Stamp do. do. .	3	2	
Land Revenue Settlement Reports	2	...	
Port Trust Administration Report, Bombay	2	1	
Port Trust Administration Report, Karachi	2	1	
History of Services of Gazetted Officers	2	7	

N.B.—During the months of November to March the copies entered in column (a) are to be sent to Calcutta in addition to the numbers shown in column (b).

B. (PUBLICATIONS OF WHICH THE SUPPLY MAY BE DISCONTINUED.)

1. Registration Department Administration Report.
2. Education do. do.

3. Irrigation Revenue Report.
4. Register of Abstracts of Decisions passed by the Inam Commissioners.
5. Law Reports.

(G. I., F. & C., Nos. 3991, dated 5th October 1891, and 3932, dated 9th September 1893; *vide* G. Rs. Nos. 8903, dated 23rd December 1891, and 7170, dated 2nd October 1893.)

9. The following is a list of the periodical reports and returns submitted to the Government of India in the Revenue and Agricultural Department from Bombay and the dates prescribed for their submission.

The Government of India hope that every effort will be made to submit the reports and returns enumerated punctually by the dates prescribed.

Reports and returns prepared under orders of Local Governments and Administrations, which are not required to be submitted to the Government of India, have been excluded from the list, but the Government of India desire that such reports and returns may continue to be forwarded for their information in all cases in which it has been customary to submit them.

The submission of blank returns is not required, but intimation should be given by post-card when a return is blank.

List of Reports and Returns and the dates prescribed for their submission to the Government of India, Revenue and Agricultural Department.

Serial No.	Description of Report or Return.	Ending date of year of Report.	Date prescribed for submission.	Reference to order of Government of India prescribing Returns.
Annual.				
1	Land Revenue Administration Report.	31st July.	1st May.	
2	Report on Land Records and Agriculture.	31st October ...	Do. ...	Letter No. 3161-43, dated 7th November 1893 (<i>vide</i> G. R. No. 8791, dated 30th November 1893).
3	Tafukdari Settlement Officer's Report.	31st July ...	15th March;	
4	Progress Report of the Surveys in the Bombay Presidency.	31st October ...	1st August.	
5	Land Revenue Report of the Bombay Collectorate.	31st July ...	1st May.	
6	Statement of Alienations of State Land authorized.	31st March ...	1st July ...	Circular No. $\frac{2}{556-08}$, dated 1st August 1876, and No. 1, dated 1st February 1878.
7	Statement of Increases of Revenue due to Revision of Settlement, &c.	Ditto ...	30th September.	Circular No. $\frac{00}{5-13}$ R., dated 6th November 1889.
8	Report of the Civil Veterinary Department.	Ditto ...	1st August ..	Circular No. 42-17, dated 28th October 1893; <i>vide</i> Government Resolution No. 8667, dated 27th November 1893.
9	List of Agricultural Implements and Machines tested and found successful.	30th September.	15th November.	Circular No. 59-A, dated the 16th September 1890.
10	Return of Famine Relief Works.	31st March ...	1st June ...	Resolution No. $\frac{8}{52}$, (Famine), dated 21st March 1892.
11	Rail-borne Trade Returns.	Ditto ...	1st October ...	Resolution No. $\frac{37}{25-21}$, dated 22nd March 1898.
12	Returns of Agricultural Statistics.	31st July ...	1st December and 1st February.	Resolution No. $\frac{19}{20}$, dated 20th July 1891.
13	Return of Mineral Concessions granted during the year.	31st December.	15th April ...	Circular No. 68-103, dated 22nd November 1893 (<i>vide</i> G. R. No. 8927, dated 6th December 1893).

Serial No.	Description of Report or Return.	Ending date of year of Report.	Date prescribed for submission.	Reference to order of Government of India prescribing Return.
14	Forest Administration Report.	30th June ...	1st January...	Circular No. 16-F., dated 7th June 1892.
15	Forest Budget Estimate.	31st March ...	16th November.	
Half-yearly.				
16	Classified List of Forest Officers and Rangers.	{ 31st December. 30th June ...	{ 1st February. 1st August ...	Letter No. 690-F., dated 25th July 1890.
Quarterly.				
17	List of Memorials withheld by Local Governments and Administrations addressed to the Secretary of State and the Government of India.	31st December.	15th May ...	Home Department Circular No. 23 1293-72 Pub., dated 30th June 1890.
			15th August.	
			15th Nov. ...	
			15th Feb. ...	
18	Rail-borne Trade Returns.	31st March ...	{ 1st October. 1st January...	Resolution No. 37 85-21, dated 23rd March 1888.
			{ 1st April 1st July.	
SIND.				
Annual.				
19	Revenue Administration Report.	31st July ...	1st May.	
20	Rail and River-borne Trade Returns.	31st March ...	1st October ...	Resolution No. 37 85-2 dated 23rd March 1888.
Quarterly.				
21	Rail and River-borne Trade Returns.	31st March ...	{ 1st October... 1st January. 1st April. 1st July.	Resolution No. 37 85-21, dated 23rd March 1888.
Crop Reports.				
Weekly.				
22	Telegram on Crop Prospects.	.....	Every Thursday.	Resolution No. 59 124 -A., dated the 5th October 1887.
Forecast of Crops				
23	Wheat—			
	1st report ...	.....	20th December.	Circular No. 20 4 -A., dated 3rd March 1888.
	2nd report ...	.....	1st March ...	
	3rd report ...	.....	15th May ...	
24	Lined and Rape—			
	1st report ...	.....	20th December.	Resolution No. 347-357, dated 18th March 1890.
	2nd report ...	.....	1st March ...	
	3rd report ...	.....	15th May ...	
25	Sesamum—			
	1st report ...	.....	15th August.	Resolution No. 347-357, dated 18th March 1890.
	2nd report ...	.....	15th October.	
	3rd report ...	.....	1st January...	
26	Cotton—			
	1st report, early crop.	.....	15th August.	Resolution No. 358-369-C., dated the 13th March 1890.
	1st report, late crop.	.....	10th October.	
	2nd report, early crop.	.....	10th December.	
	2nd report, late crop.	.....	10th February.	
	3rd report, early crop.	.....	
	3rd report, late crop.	.....	

* Submitted direct to the Government of India by the Accountant General.
 † Submitted direct to the Government of India by the Survey Commissioner and Director of Land Records and Agriculture.

(G. I., R. & A., No. 49-117, dated 12th October 1892; vide G. R. No. 9839, dated 15th December 1892.

10. The following list shows the number of copies of Revenue Department periodical reports, &c., to be furnished to the Berár Administration and the officers subordinate to it:—

Serial No.	Nature of Publication.	Designation and Station of officer to be supplied and No. of copies to be sent.	Total No. of copies.
1	2	3	4
1	Report of the Department of Land Records and Agriculture ...	One copy each to— (1) the Secretary for Berár to the Resident, Hyderabad ... (2) the Commissioner, H. A. D., Amráoti ... (3) the Director of Land Records and Agriculture, H. A. D., Akola...	3

Serial No.	Nature of Publication.	Designation and Station of Officer to be supplied and No. of copies to be sent.	Total No. of copies.
1	2	3	4
2	Quarterly Rail-borne Trade Returns ...	One copy of each to— (1) the Secretary for Berár to the Resident, Hyderabad ... (2) the Director of Land, Records and Agriculture, H. A. D., Akola... ..	2 copies of each.
3	Rail and Road-borne Traffic Report (exclusive of Sind) ...		
4	Report on External Land Trade and the Rail-borne Trade (exclusive of Sind) .		
5	Municipal Report ...	One copy each to— (1) the Secretary for Berár to the Resident, Hyderabad ... (2) the Commissioner, H. A. D., Amráoti	2
6	Report on the Administration of the Opium Department.	One copy each to— (1) the Secretary for Berár to the Resident Hyderabad ... (2) the Commissioner, H. A. D., Amráoti	2
7	Forest Report ...	(1) one copy to the Secretary for Berár to the Resident, Hyderabad ... (2) one copy to the Commissioner, H. A. D., Amráoti. (3) seven copies to the Conservator of Forests, H. A. D., Amráoti	9
8	Stamp Report ...	One copy each to— (1) the Secretary for Berár to the Resident, Hyderabad ... (2) the Commissioner, H. A. D., Amráoti... .. (3) the Inspector-General of Stamps, H. A. D., Amráoti	3
9	Registration Report .	One copy each to— (1) the Secretary for Berár to the Resident, Hyderabad ... (2) the Commissioner, H. A. D., Amráoti (3) the Inspector-General of Registration, H. A. D., Amráoti	3

The distribution should be made direct as shown in column 3 of the list, or the number of copies shown in column 4 may be sent to the office of the Secretary for the Berárs to the Resident, Hyderabad. If any officers under the Resident not specified above are being supplied with any official publications, the supply may be continued, unless a request to the contrary is made hereafter.

The above list does not affect the supply of any official publications which may be forwarded to officers under the Resident on the requisition of the Superintendent of Stationery, Calcutta.

(Secretary for Berár to the Resident, Hyderabad, No. 50, dated 6th January 1893 : *vide* G. R. No. 692, dated 26th *idem*.)

11. The Governor General in Council invites the cordial co-operation of Local Governments, Heads of Administrations and Departments and of Officers,

* Copies of Administration Reports.

Gazettes,
Special reports furnished by District Officers and others to Local Governments, &c.

Civil, Military and Naval, in supplying spontaneously, as well as on application, the Intelligence Branch of the Quarter Master General's Office, with materials* necessary for compiling information which may be of use to the Government of India in the conduct of future military operations within or beyond the frontiers of the Indian Empire. (G. I., M. D., No. 683 S. D., dated 21st June 1880; *vide* G. R., M. D., No. 3289, dated 2nd July 1880; and G. M. No. 3582, dated 10th idem.)

12. Copies of the Land Trade Reports of Sind should be supplied direct to the Intelligence Branch of the Quarter Master General's Office as they are published. (G. I., F. & C., No. 191 C., dated 24th July 1880; *vide* G. M. No. 3957, dated 29th idem.)

13. The Compiler of the General Administration Report should embody in the Public Works section of that report information on the points noted in the Secretary of State's Despatch* No. 17 P. W., dated 3rd April 1890, materials for which will be supplied in the form of an Appendix to the Civil Works Administration Reports of the Public Works Department. (G. R. No. 6135, dated 29th August 1890.)

14. The Compiler of the General Administration Report should take his figures regarding agricultural stock from the returns compiled for his use by the office of the Director of Land Records and Agriculture. (G. R. No. 7397, dated 18th October 1890.)

* "In preparing the annual statement of the moral and material progress and condition of India, it would be useful to show the total length of road communication maintained by public authorities of any kind in the different Provinces and Administrations.

"2. Complete information on this subject does not at present exist in this office, and I shall be glad if your Excellency will cause me to be furnished with a statement for the year 1888-89, distinguishing the roads which are metalled throughout from those which are not metalled, but graded throughout, or of a serviceable though temporary description.

"3. For subsequent years it would be desirable that instructions should be given that the section relating to Public Works in the different Administration Reports should include a statement of the extensions carried out in the year to which they relate, as well as of the length of road maintained during the year. Any information available as to the average cost of making and maintaining roads would also be of interest."

(Secretary of State's Despatch No. 17 P. W., dated 3rd April 1890.)

REVENUE OFFICERS AND SERVANTS.**PART I.—COMMISSIONERS.**

1. Commissioners should give an opinion on every subject submitted to Government through them, even though it be an appointment in the patronage of His Excellency the Governor. (G. L. No. 4738, dated 19th December 1860.)

2.** Although the power to grant sick leave necessitating the departure of an officer from his district has not been conceded to the Commissioners, yet His Excellency the Governor in Council authorizes them to permit the departure of officers in cases of emergency in anticipation of formal leave. (G. R. No. 4041, dated 17th September 1861.)

3. In modification of the orders contained in Government Resolution No. 1192, dated 21st March 1862, His Excellency the Governor in Council is pleased to authorize the Commissioners of Divisions to sanction applications for the grant of privilege leave of absence to gazetted officers under them for periods not exceeding 30 days* in cases where no substitute is required and no extra expense is involved. In other cases leave will be granted by Government. (G. R. No. 6834, dated 12th September 1889.)

4. All correspondence in the Revenue and Police Departments should be carried on through the Revenue and Police Commissioners, direct references being avoided as much as possible. (G. L. No. 3116, dated 8th July 1861.)

5. Commissioners are authorized—

(1) to write off outstanding balances of revenue to any extent, but all such remissions, with the reasons for them, should be reported annually to Government for its information in a tabular statement appended to the Jamábandi reports;

(2) to write off unserviceable dead-stock to any extent, but they should forward annually to the Accountant General for information a statement of the prime cost, the amount realized, and the cause of sale stated briefly;

(3) to correspond direct with the Accountant General in all cases connected with travelling allowances to Collectors, their Assistants and Deputies, Superintendents of Police and their Assistants, batta to establishments, disbursements of salaries inadvertently credited as savings, and salaries of acting officers of all grades, reference to Government being made only in the event of final differences of opinion. (G. R. No. 3116, dated 8th July 1861.)

(4) Commissioners are authorized to sanction remissions of assessment up to Rs. 1,000. If remissions on a large scale are proposed to be granted, on account of bad harvests over an ex.

* Vide G. R. No. 8190, dated 29th April 1895; and G. M. No. 3407, dated 6th May 1895.

PART I.] [REVENUE OFFICERS AND SERVANTS.

tensive tract of country, the matter should be referred for the orders of Government.

(G. R., F. D., No. 720, dated 8th March 1887.)

Any order which would involve a loss or delay in receipt of revenue of a sum exceeding Rs. 20,000 should be reported at once on its issue to the Government of India.

(G. R. No. 2585, dated 27th April 1888.)

6. Commissioners are authorized to sanction, in rectification of evident errors, refunds of sums credited to Government. (G. R. No. 251, dated 21st January 1862.)

7. The Commissioner, as responsible for the entire revenue administration of his Division, is entitled to apply to any officer employed therein, for such information affecting the revenue as he may deem necessary. (G. R. No. 785, dated 25th February 1867.)

8. The sanction of the Commissioner is necessary in all cases of exchanges in lieu of land taken up for public purposes. (G. R. No. 1910, dated 24th March 1877.)

9. Commissioners have power to give Government waste land in lieu of inám land taken up for a public purpose. (G. R. No. 6825, dated 24th September 1886.)

10. Cases of grants of inám lands to village servants in exchange for that taken up for public purposes, or rendered unfit or unsuitable from any cause, may be sanctioned by the Commissioners. They may also sanction cash allowances, in accordance with the rules when no suitable lands are available. (G. Rs. Nos. 2863, dated 21st May 1881, and 3422, dated 12th May 1893, and G. R., F. D., No. 720, dated 8th March 1887.)

11. The Extra First Assistant Collector in charge Panch Maháls having requested sanction to enter certain land in Kálol belonging to one Ishwar Kuvarji as alienated, liable to a salámi of Rs. 23-8-0 out of an assessment of Rs. 43-4-0, the said holder having established his claim to hold the land as alienated, the Revenue Commissioner enquired whether in cases of that kind he had authority to order the entry of the lands as alienated. It was resolved that in such cases the Revenue Commissioner might decide the question without reference to Government. (G. R. No. 5998, dated 5th October 1877.)

12. Commissioners are authorized—

to incur expenditure for the erection of boundary marks in Government waste survey numbers ;

to sanction excesses over contract grants of the Collectors up to Rs. 100 in respect of "3, Land Revenue," "6, Stamps," "7, Excise" and "32, Miscellaneous," on being satisfied that the expenditure was really unavoidable

REVENUE OFFICERS AND SERVANTS.] [PART I.

and that every care was taken to avoid unnecessary expenditure; and

to sanction refunds of Khoti profits during attachment of Khoti villages in Ratnágiri.

(G. Rs., F. D., Nos. 720, dated 8th March 1887, and 2050, dated 30th June 1888.)

13. The power vested in the Commissioners by the foregoing order to sanction expenditure over the contract allotments within the limit of Rs. 100, should be exercised by them subject to the condition, which will be strictly enforced, that the grant for the following year be reduced by a corresponding amount. (G. R., F. D., No. 2777, dated 7th September 1888.)

14. Commissioners are authorized, in cases of mere clerical mistakes in sanads, to sanction their cancellation and the issue of fresh ones in their stead without reference to Government, except in matters beyond the scope of the Commissioner's proper authority. Sanads once issued are the property of the holders thereof, and that it was never contemplated that they should be renewed or altered otherwise than with the consent or at the instance of the holders themselves, except in the following cases :—

(1) When they refer to land which had not been surveyed and assessed when they were granted, and contain entries of areas, salámi, &c., expressly declared to be provisional only and liable to revision when the land is surveyed.

(2) When they are vitiated by some clerical error in making them out.

(3) When the land to which they relate has been entirely surrendered to or resumed by Government, in which case they should be re-called and cancelled if possible.

In other cases Government are not concerned in the renewal of sanads, though, when any changes occur which are likely to obscure the identity of land, the holders of them should be encouraged to present their sanads for endorsement or renewal if they prefer it, and are willing to pay the renewal fee. For Government purposes it is sufficient that all such changes should be duly recorded in Village Form IX, so that the identity of the land, for which the sanad was originally granted, can be readily traced through all subsequent changes of number, area, or assessment.

(G. Rs. Nos. 5589, dated 8th July 1892, and 6003, dated 16th July 1894.)

15. The Commissioner in Sind and the Divisional Commissioners are authorized to sanction refunds of forest revenue exceeding Rs. 200, and the writing off of irrecoverable balances of forest revenue up to Rs. 1,000 in each case. (G. Rs. Nos. 1361, dated 18th February 1893, and 4756, dated 10th July 1899.)

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16. The Commissioners of Divisions and the Commissioner in Sind are authorized to grant leave on allowances, subject to the restrictions imposed in Article 317 of the Civil Service Regulations, to karkuns and other Revenue subordinates for the period spent at appearing at the Lower and Higher Standard Departmental Examinations. (G. R., F. D., No. 3980, dated 24th December 1888.)

17. The Commissioner in Sind is authorized to sanction the temporary entertainment of zabits on Rs. 20 per mensem each for a period not exceeding three months, provided the expenditure can be met from grants entered in the budget estimates. (G. R. No. 9090, dated 30th November 1889.)

18. In the interests of the public administration it is desirable that each Divisional Commissioner should have his monsoon head-quarters and should reside during the rains in his own Division in place of spending at Poona five months of the year.

The head-quarters during the monsoon months of the Commissioner, N. D., should be at Ahmedabad; those of the Commissioner, S. D., at Belgaum.

(G. Rs. Nos. 9280, dated 7th December 1889, 1982, dated 17th March 1890, and 2658, dated 17th April 1890.)

19. The touring systems tentatively introduced in the Central and Southern Divisions under the orders contained in Government Resolutions, Financial Department, Nos. 3047, dated 10th November 1887, and 281, dated 31st January 1888, are to be permanently adopted.

The Commissioner, N. D., is allowed to locate his head-quarter office in a few central camps while touring in the districts of Thána, Surat, Broach and Kaira and halting at the City of Ahmedabad, and to take with him such portion of his records and office establishment as may be found to be absolutely necessary when travelling along the tract of country north of Ahmedabad and in North-East Gujarát.

(G. R. No. 9280, dated 7th December 1889.)

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PART II.—COLLECTORS, ASSISTANT AND
DEPUTY COLLECTORS.(i) *Appointments, Leave, &c.*

1. In the list of Senior and Junior Collectors, the names should be entered according to date of appointment, and not according to seniority in the service. But this order should be considered as merely laying down how the list of Senior and Junior Collectors in the Civil list is to be prepared for purposes of information and not as giving directions as to promotion from one to the other grade.

Promotions from the grade of Junior to the grade of Senior Collector are to be made according to seniority in the service, not according to date of appointment to a Collectorate. The Accountant General should dispose of all questions of pay and allowances to Senior and Junior Collectors in accordance with this ruling.

(G. Rs. Nos. 4144, dated 22nd July 1875, and 6839, dated 6th December 1875.)

2. When it becomes known to the Accountant General's office that a Collector has made over charge to the Senior Assistant Collector of the District, it should enter the latter as acting as a Collector and propose the promotions consequent on such appointment in the gradation list which is submitted for the approval of Government, so that orders may be passed regarding all the changes involved without unnecessary delay. (G. R. No. 4395, dated 28th July 1881.)

3. The vacancies of acting First and Second Assistant Collectors are filled up in the gradation list of Revenue officers according to the seniority of officers, and irrespective of the districts in which they occur, and the work which the Assistant Collectors perform. (G. R. No. 6577, dated 5th November 1881.)

4. A mere re-arrangement of the work of a district among the available Assistants and Deputy Collectors does not give any of those officers claim to higher allowances, as the vacancies in the grade of Assistant Collectors are filled up under standing orders by promotion of the Senior Second Assistant and Supernumerary Assistant Collectors without reference to their duties. (G. R. No. 970, dated 11th February 1882.)

5. The Accountant General should submit two separate monthly gradation lists, *viz.*, one of Commissioners and Senior and Junior Collectors and the other of First and Second Assistant Collectors and Judges, who under the orders contained in Government Resolution, Judicial Department, No. 778, dated 10th February 1892, are to be borne on one list. The former list will be issued from the Revenue and the latter from the General Department. (G. R. No. 1751, dated 11th March 1892.)

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6. Every First Assistant Collector is required to carry on the duties of the Collector when that officer is summoned to a conference, without extra remuneration. (G. R. No. 5747, dated 17th October 1873.)

7. For the first thirty days of the absence of a Collector on privilege leave one of the officers acting as Collector must lose acting allowance, and it is generally fair that that officer should be the Junior Acting Collector, although he may not personally have had any connection with, or owe anything to the departure of the officer on privilege leave. (G. R. No. 2343, dated 19th March 1885.)

8. The Bombay Government is authorized to temporarily retain in the Judicial Department the services of an Assistant Collector and to allow him to continue to act as a Supernumerary Assistant Judge instead of reverting temporarily to the Revenue Department, although no acting vacancy to which he could be appointed be available at the time, provided (1) that the period within which the expected vacancy in the Judicial Branch will occur does not exceed three months in each case from the date on which the officer concerned becomes a Supernumerary in the Judicial Department, and (2) that no promotion is allowed in the Revenue Department in place of the Supernumerary Judicial Officer concerned until he is absorbed by the occurrence of a vacancy in the Judicial Department. (G. I., H. D., No. 1207, dated 2nd September 1885; vide G. R. No. 8316, dated 13th October 1885.)

9. The attention of the Commissioners and Collectors is invited to Article 119 of the Civil Service Regulations. A Collector when submitting with his recommendation for its grant an application for privilege leave preferred by an Assistant or Deputy Collector serving under him should always explain how he proposes to provide for the discharge of the duties of the officer applying for leave during his absence on leave. If he is unable to make such provision with his existing staff he should report what are the exceptional circumstances in the case which render it advisable that the grant of privilege leave applied for should not be deferred until he can make satisfactory arrangements for the performance of the duties of the officer requiring the leave. In the case of an application for privilege leave preferred by a Collector, the Commissioner of the Division when forwarding it for orders should submit a similar explanation or report. (G. R. No. 3434, dated 9th May 1889; vide also G. M., to the Commissioner of Customs, Salt, Opium and A'bkári, No. 890, dated 3rd February 1890.)

10. The Commissioner in Sind and the Divisional Commissioners should promptly report to Government all cases of grant of leave by them to Collectors and District Magistrates, and the arrangements they may make for the discharge of the duties of those officers during their absence, so that Govern-

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ment can gazette the appointments of acting officers at once, and thus avoid the risk of any legal difficulties which may arise in the omission to furnish the incumbents with political, magisterial, or any other jurisdiction which under the circumstances may be needed. The Commissioners should further be directed with reference to the provisions of Section 11 of the Land Revenue Code to report the circumstances before actually granting the leave in any case in which it may be desirable that an officer other than the Senior Assistant Collector on regular duty in the district should take charge, in order that the necessary notification may be issued *beforehand*.

Officers on whom the duties of Collector and District Magistrate may devolve temporarily under Section 11 of the Land Revenue and Criminal Procedure Codes, should abstain from taking on themselves any of the functions under the Bombay Local Boards and District Municipal Acts which have been vested personally in the officer for whom they are acting until they have been formally gazetted to exercise those powers.

(G. R. No. 867, dated 31st January 1893.)

11. The appointment of Collector of the Presidency Town of Bombay is not one of the reserved or scheduled appointments under Act 24 and 25 Vict., c. 54, kept exclusively for members of the Covenanted Civil Service. (S. of S. No. 4, Rev., dated 15th February 1883; *vide* G. R. No. 2290, dated 20th March 1883.)

12. The post of First Assistant Collector, Bombay, is not a reserved or scheduled appointment. (G. M. to the Accountant General, No. 6180, dated 30th August 1890.)

13. The circumstances of the appointment of the Assistant Collector, Bombay, are peculiar. It is not a scheduled appointment, but it has been decided that it should always be held, if possible, by a covenanted Civilian, and it therefore is included in the graded appointments and has no special local *pay*. (G. R. No. 6580, dated 16th August 1892.)

14. The appointments of the Collector of Land Revenue, Customs and Opium, Bombay, and the First Assistant Collector, Bombay, should be treated not as special appointments of a particular grade, but as additions to the general sanctioned strength of Senior Collectors and First Assistant Collectors, respectively. (G. R. No. 3686, dated 5th June 1888.)

15. As a general rule, Huzúr Deputy Collectors should only be allowed privilege leave during the rains, when other Assistants can take charge of the Huzúr without interfering with the district duties of Assistants in permanent charge of districts. (G. R. No. 900, dated 22nd February 1861.)

16. All notifications issued by the Commissioner in Sind affecting the temporary transfer of Deputy Collectors should be recognized as authoritative. (G. R. No. 5961, dated 2nd December 1870.)

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17. As a general rule, all promotions in the grades of Deputy Collectors will be made according to seniority, both in the case of substantive vacancies and in respect to promotions *pro-tem.* to a higher grade. It follows that any Deputy Collector appointed for the first time to a particular grade, will be placed at the bottom of the grade, and except on special occasions, every new appointment will be made to the lowest grade of all. Government, however, reserve to themselves the right on such special occasions to nominate to a higher grade any officer whose appointment to it, without his having passed through the lower grades, the exigencies of the State may render necessary. (G. R. No. 918, dated 17th February 1873.)

18. Daftardárs in Sind having been graded with Deputy Collectors, their appointments emanate from Government, who will attend, as far as possible, to the recommendations of the Commissioner, but the Commissioner may fill up mere temporary vacancies in such manner as may be necessary, the confirmation of Government being subsequently obtained. (G. R. No. 1010, dated 18th February 1875.)

19. At stations where the treasure is kept by the Bank of Bombay, the Deputy Collector at the Sadar station should be called, not Deputy Collector or 'Officer' in charge of the Treasury, but by the ordinary title borne by all such officers, *viz.*, 'Huzúr Deputy Collector.' (G. R. No. 4880, dated 26th August 1875.)

20. The Accountant General should submit every month a gradation list of Deputy Collectors. (G. M. No. 1382, dated 13th February 1884.)

21. Officers of the rank of Deputy Collectors, whose services are lent to Native States or who are detailed on other special duty, will ordinarily be considered entitled to receive substantive grade promotion according to seniority during their absence for a period of five years from the date of their deputation on special duty, but on the expiration of that period they will not receive any further promotion during their absence without the special orders of Government. (G. R. No. 6986, dated 1st September 1884.)

22. Reversions from substantive *pro-tem.* to acting appointments in the grade of Deputy Collectors should be regulated according to the merits of each case as it arises. (G. R. No. 5568, dated 11th July 1884.)

23. Deputy Collectors are ordinarily graded in the order in which they were appointed substantively to the post of Mámlatdár or Head Accountant. (G. R. No. 7995, dated 9th October 1884.)

24. The appointments of Deputy Collector and Assistant Collector are parallel appointments on the same establishment. This is clear from the nature of the pay and duties, and was specially laid down

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in Government Resolution No. 3831, dated 14th October 1868. An officer can receive no extra allowance for doing the work of a fellow officer on the same establishment who does not hold a higher appointment, and a Deputy Collector discharging the duties of an Assistant Collector in addition to his own is in the same position as if he were discharging the duties of another Deputy Collector in addition to his own. He can in neither case draw any extra allowance. (G. Rs. Nos. 5990, dated 21st August 1886, and 6714, dated 9th October 1888.)

(ii) *Powers, duties, &c.*

1. Collectors are not called upon to provide districts for every Assistant sent to them, or to change the charges of their Assistants in accordance with their varying numerical strength. The charges of the First, Second and Third Assistants and Deputy Collectors once arranged are not to be altered except for important public reasons. Young Assistants attached to Collectors are to be employed under the Collector himself or under the First or Second Assistant, who ought to have more than enough work at their disposal to give an Assistant useful employment.

The distribution of the charges of Assistants will rest with the Collectors subject to the control of the Commissioner, whose notification in the *Government Gazette* may be accepted by the Civil Auditor as authority. Reference to Government will be necessary only when the Commissioner sees special reason for it.

(G. R. No. 414, dated 30th January 1860.) ✓

2. A Collector need not always hold charge of a taluka, but he should occasionally do so if he has doubts whether any Assistant or Deputy is conducting his duties in a satisfactory manner.

He should always (unless there is special cause, which should be reported) do the jamabandi of two talukas from different Assistants' charges.

He should take talukas in turn (not necessarily in regular rotation), so that he may, within a reasonable time, see how work is conducted in all talukas.

In all complicated cases, the Collector should require his Assistants or Deputies to make their reports in English, so that their work may come fully under his observation.

(G. R. No. 4305, dated 23rd August 1878.) ✓

3. The question of the redistribution of Assistants' charges is left to the decision of the Commissioners of Divisions. (G. R. No. 2591, dated 10th May 1881.)

4. The settlement of the land and sayar revenues of the districts should be completed, if possible, by the end of February or at the latest by the 15th of March, and the cause of delay in the settlement of any taluka should be briefly explained in the

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annual reports. The period for completing the jamábandi can be extended by the Commissioners without reference to Government. (G. Rs. Nos. 161, dated 18th January 1864, 330, dated 25th January 1868, and 1824, dated 11th March 1893.)

5. The following are extracts from a memorandum by Mr. (now Sir) T. C. Hope, dated 11th December 1874, which was circulated by Government for the information and guidance of all Collectors and their Assistants :—

“3. One principal matter is the jamábandi. Before beginning the jamábandi of any táluka, I would suggest that the officer cause his kárkúns to prepare a tabular statement containing the name of each village, and the chief items of revenue for the previous year, in the vernacular, as also blank columns for similar items of the current year, and ample space for causes of increase and decrease and general remarks. As each village comes up for settlement, the officer should enter with his own hand the items of revenue as settled by him in Village Form No. 10, the causes of increase and decrease as ascertained on enquiry, and any general remarks on the state or wants of the village, the efficiency of the village officers, accuracy of the accounts, &c., which may suggest themselves. When all the villages have been gone through, a few remarks on the táluka and the settlement in general will complete the record for subsequent use by the officer himself, or any successor into whose hands it may pass. A Collector doing a jamábandi should hand over a similar record to the officer in charge of the táluka.

“4. The only other record which I would recommend is a current memorandum book, in which should be written *at the time* anything which particularly strikes the officer regarding any place, and is intended for practical use, as also any information necessary for the Administration Report, for instance :—

December 1st.—Examined the statistics of Táluka. The figures of population, resources, &c., are as under The great increase in appears owing to and the falling off in to

December 5th.—Completed 1st examination, and signed taleband.

December 15th.—Began jamábánda of Táluka

January 5th.—Inspected tanks at : it is much in want of repairs. The people offer Rs. 200: a grant of Rs. 300 more should be recommended in the Táluka Local Fund Budget.

January 10th.—Visited ; inspected fields and rayats' books ; examined the accounts and records.

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February 1st.—Visited schools at and
 . The first in good order. Wrote to
 inform the Deputy Inspector that the second
 was closed and the master absent without leave.

April 5th.—Held quarterly Local Fund meet-
 ing at . The figures of attendance, &c.,
 for the past year are as under . The
 best members are and .

I need scarcely say that it is the duty of a
 Shirastedár to aid the memory of his chief,
 ascertaining before leaving the head-quarters of a
 táluka for instance that no necessary information
 has been forgotten, and in the case of a young
 officer on his first tour explaining what there is
 to be done.

* * * * *

"5. It should be a standing rule that nothing
 which can be obtained or done at a táluka at the
 time of the first inspection should, without defi-
 nite good reason, be left over for the second, and
 when an officer giving over charge has violated
 this rule it should be the duty of the officer receiv-
 ing charge to bring the fact to the Collector's
 notice."

(G. R. No. 53, dated 6th January 1875.)

6. At the jamábandi, lists should be obtained
 from the village officers of the deceased Khátedárs
 whose names are retained in the accounts in place
 of their heirs, and carefully examined. (G. Rs. Nos.
 8246, dated 23rd November 1886, and 10072, dated
 23rd December 1892.)

7. The orders of Government as to the com-
 pletion of the jamábandi settlement at least three
 camps in each táluka should be strictly observed.
 Government must insist on this duty being carried
 out with a minimum of inconvenience to the village
 officers and their work. Where agricultural estab-
 lishments have been appointed, it is especially
 desirable that Kulkarnis and Talátis should not be
 called away to any distance from their charges, and
 all Collectors should issue orders to ensure that vil-
 lage officers are not detained beyond a limited period
 for the preparation and disposal of the jamábandi
 papers. (G. R. No. 9246, dated 18th December
 1893.)

8. It is hereby notified, with reference to Sec-
 tion 3 of Bombay Act I of 1868, published in the
Bombay Government Gazette of the 1st December
 1868 that 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 De-
 partmental Examination according to the Higher
 Standard. * * * (G. N. dated 2nd December
 1868.)

9. The Land Revenue Code, Bombay Act V
 of 1879, is an Act passed 'to consolidate and amend
 the law relating to Revenue Officers' as well as the

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law relating to the assessment and recovery of land revenue. Chapter II of the Code deals with the 'constitution and powers of Revenue Officers,' and Section 10, which occurs in that chapter, lays down that an Assistant or Deputy Collector in charge of talukas shall, subject to appeal, perform all the duties and exercise all the powers conferred upon a Collector of a district by the Code or 'any other law at the time being in force,' so far as regards the talukas in his charge; but authority is given to the Collector to withdraw any duties or powers that he thinks fit from any Assistant or Deputy.

There is no ground for limiting the meaning of the words 'or any other law at the time being in force' by holding that only laws relating to land revenue are meant. If this had been intended, the Legislature would have employed language which would have made such intention clear. The intention of the words actually used is that, in his talukas, the powers and duties of an Assistant or Deputy Collector shall be the same as are conferred or imposed by any law upon the Collector, subject always to a right of appeal to the Collector and to the power of the Collector to direct his Assistant or Deputy not to perform certain duties or exercise certain powers.

The Local Boards Act has been passed by the Legislature with a knowledge that this was the general law, and as it has not thought fit to enact that the Collector's duties and powers under that Act shall not be performed or exercised in their respective talukas by his Assistants or Deputies, the general law applies to the Collector's functions under the Local Boards Act.

(L. R. No. 1461, dated 28th October 1884; *vide* G. R. No. 8718, dated 5th November 1884.)

10. Collectors should have no difficulty in deciding what powers conferred upon the Collector by Act I of 1884 they should reserve to themselves. The powers under Sections 64 and 65 should be so reserved. (G. R. No. 8718, dated 5th November 1884.)

11. It is the duty of the Collector of the district and the Commissioner of the Division to make themselves acquainted with all the material wants of the Collectorates entrusted to their charge. They should then carefully consider whether the wants ought to be supplied by the use of the Local Funds, or by contributions from the Imperial Treasury. This being determined, specific proposals, supplemented by plans and estimates, should be forwarded to Government. The necessity of the works and the best method of carrying them into effect would then be carefully considered. (G. R. No. 1329, dated 20th March 1871.)

12. Government have in their Resolution No. 5091, dated 12th October 1871, paragraph 6, clause b, issued the following instructions to Assistant Collectors *apropos* of the preparation of their annual

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reports:—“Every Assistant is at the time of doing jamábandi or examining records, &c., to keep in his own hand notes of the results and the statistics necessary for his report. All such notes are to be handed over on a transfer, and the fact that all materials necessary for the report up to date have been so transferred is to be mentioned in the usual report of giving over and receiving charge.”

No such orders exist with reference to *Collectors*; but it is considered desirable that similar instructions should apply to those officers as well. Copies of the following circular of the Government of the Punjab, No. 25-3793, dated 9th November 1878, directing that every Deputy Commissioner who shall have been in charge of a district for more than a year, shall, on leaving it, record for the information of his successor a memorandum of all important points connected with the administration of the district, are circulated for the information and guidance of Commissioners and Collectors:—

“A large amount of valuable information is lost to the Government for administrative purposes from the fact that Deputy Commissioners, leaving their districts on furlough, transfer, or retirement, make over charge to their successor without giving any memoranda on the various matters of importance with which they have been long officially connected. Consequently, the new-comer has to discover for himself the facts regarding every branch of the administration which might have been more conveniently collected and placed on record by the officer who had long been in charge of the district.

“2. The burthen of the duties of the new District Officer is thus largely and unnecessarily increased; it is long before his knowledge of the district becomes such as to enable him to control it efficiently, while all continuity in administration is apt to be lost.

“3 The Honourable the Lieutenant Governor is accordingly pleased to direct that every Deputy Commissioner who shall leave a district, of which he has been in charge for more than a year, on transfer, furlough, or retirement, shall record, for the use of his successor, a carefully drawn and exhaustive memorandum noting all points of which it is important that his successor should be informed.

“4. It may hereafter be possible to note in more detail the subjects to which attention should be specially directed in these memoranda; but I am here principally to note the working of the Police; the manner in which the incidence of the land revenue assessment affects the district; the portions which require particular care on the occurrence of drought or high prices; any special offence to which any portion of the ordinary population or criminal tribes of the district are addicted; and the working of Municipal and District Committees.

“5. In addition to this, should be carefully recorded the names and character of the more important native gentlemen or headmen of the district; their activity or supineness in the suppression of crime, and any special services which they may be fitted to render to the Government in case these should be required of them. Existing rules provide for a record of the qualifications and services of the ministerial officers of a district, and this record must be duly kept up.

“6. Commissioners are requested to ascertain, before a Deputy Commissioner leaves a district, whether the

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memorandum now prescribed has been prepared, and should satisfy themselves that it contains the information required in sufficient detail."

(G. R. No. 2857, dated 31st May 1879.)

13. It is the duty of Collectors to insist on their Assistants keeping their notes in a full and complete manner. (G. R. No. 1265, dated 11th March 1874.)

14. Commissioners should take measures to ensure references from Government meeting with prompt replies.

Collectors should at once furnish replies to references which do not require any kind of labour or research, and the information necessary to reply to which can be extracted at once by a clerk from the Accounts and Records.

In matters requiring careful consideration valuable time should not be lost by calling for opinions in an indiscriminate manner. Opinions should only be called for from those officers likely to give useful ones.

Great attention should be paid to the punctual transmission of periodical reports. Collectors should invariably keep a list of such reports by them, and see that they are regularly despatched.

Before a petition reaches Government it has, as a rule, been reported on both by the Assistant Collector and the Collector. All reports of this nature should be written by the transmitting officer in his own language. The Assistant or Deputy, in reporting on a petition to the Collector, should do so in English, and, if possible, after having given the petitioner an opportunity of personally stating the particulars of his case. The Collector should, on appeal, record in English his reasons for confirming or annulling the decision of his Assistant or Deputy; and in the event of a further appeal being made to the Commissioner, the Collector should transmit the record of proceedings with a report in English. By this means there will be a guarantee that each officer has understood the merits of the case, and the Commissioner will, as a rule, have by him the means of at once replying to any petition referred to him by Government.

(G. C. No. 4283-A., dated 5th October 1869.)

The orders in Government Circular No. 4283-A., dated 5th October 1869, are applicable to all revenue and miscellaneous petitions.

The decisions passed in the first instance by the Assistant are generally communicated to the Mám-latdárs, and are frequently on trivial matters; they may, therefore, be recorded in the vernacular. In important or complicated cases, where the decision is likely to be appealed against, the Assistant will generally find it most convenient to record his judgment in English in the first instance, and send a translation of it to the Mám-latdár. This is a

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matter that must be left to the discretion of the Assistant.

But in reporting on a petition in appeal to the Collector, the Assistant must do so in English.

(G. R. No. 4920, dated 12th November 1869.)

15. A Collector or his Assistant may with the concurrence of the Commissioner be absent from his district for two or three days at a time; but the Commissioner must see that this indulgence is not granted too often. This does not apply to public holidays. (G. R., F. D., No. 5948, dated 27th November 1871.)

16. Collectors should submit their reports, &c., to Government in all cases through the Commissioner of their Division, except when specially directed to address Government direct. Reminders to the Collectors are not to be sent to them direct from the Secretariat. (G. R. No. 784, dated 7th February 1877.)

17. The position of Revenue officers in charge of districts gives them special facilities for stimulating the progress of education and examining into the state of primary schools, and Government are aware that a good deal has been done in this respect. And, in consideration of the success which has attended these voluntary efforts, Government will not issue authoritative instructions on the subject. Government will view with marked approbation the exertions of any officer who gives special attention to this particular duty. The Director of Public Instruction should notice in his annual report the cases in which individual members of the service have given effective support to his Department. (G. R., E. D., No. 89, dated 10th February 1871; *vide* G. M. No. 483, dated 14th *idem*.)

18. Government have never made the examination of schools by Assistant Collectors compulsory, as the zeal of those officers has hitherto rendered any such order unnecessary. His Excellency in Council is quite content to leave matters on their present footing. (G. R. No. 6825, dated 24th December 1874.)

19. Collectors have authority—

- (1) to write off articles of unserviceable dead-stock the prime cost of which did not exceed Rs. 100;
- (2) to appoint all their own office people (except the Daftardár, Shirastedár, Head Accountant, and Huzúr Treasurer,) all Maháلكaris, and all acting or officiating (but not probationary) Mámlatdárs* ;

* "The power of appointing Mámlatdárs, whether acting or substantive, vests, I think, under Sections 12 and 20 of the Code, in the Commissioners alone. A subordinate who takes charge of a Mámlatdár's office under Section 15 should do so, I think, in accordance with orders issued from time to time by the Collector designating the subordinates who should take charge on the occurrence of sudden and temporary vacancies and not

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- (3) to grant leave of all kinds, in accordance with the existing rules, to the extent of six months to all officers whom they have the power to appoint;
- (4) to disburse their "discretionary allowances" (for public works) as they think fit;
- (5) to sanction contingent expenditure up to Rs. 50 in each case;
- (6) to discharge all village officers who are not hereditary, appeal lying to the Commissioners.

(G. L. No. 3116, dated 8th July 1861, and G. R., F. D., No. 311, dated 10th March 1869.)

20. The appointment of peons and talátis rests with the Assistant or Deputy Collector in charge of the taluka. (G. R., F. D., No. 595, dated 20th May 1867.)

21. Collectors are authorized to write off outstanding balances of revenue up to Rs. 100 in each village in one year. This is applicable to balances on account of any items of revenue over the levy and collection of which they exercise a control and for which they are responsible. (G. L. No. 3116, dated 8th July 1861, and G. R. No. 685, dated 4th March 1863.)

22. Collectors are authorized to grant remissions of assessment on account of loss by fire to the extent of Rs. 50 in each case. This authority has reference to each individual who has suffered loss. (G. R. Nos. 1054, dated 26th February 1874, and 4431, dated 19th July 1877.)

23. Collectors should see that no remissions are granted without a careful scrutiny in each individual case. (G. R. No. 2916, dated 5th June 1860.)

generally by express appointment; and such subordinates, whether expressly nominated or not, should, I think, subscribe themselves as 'in charge of the Mámlatdár's office' and not as 'Acting Mámlatdár.'

"The Commissioner, C. D., informs me that it has been the practice hitherto to leave to the Collectors the power of nominating Acting Mámlatdárs for short vacancies, like the one in the present instance, which is for three months, and Government Resolution No. 3116, dated 8th July 1861, is quoted by his Assistant as the authority under which Collectors thus appoint Acting Mámlatdárs. This Resolution can of course not prevail against the enactment of the Revenue Code, which limits the power of appointment to the Commissioners, and I am of opinion that all appointments of Mámlatdárs, whether substantive or acting, must be made by the Commissioners and gazetted. When this is done it will be unnecessary, in accordance with Government Resolution, Judicial Department, No. 3339 of 18th May 1883, for Acting Mámlatdárs' powers under Bombay Act III of 1876 to be gazetted; and if subordinates take charge temporarily only of Mámlatdárs' offices as is intended by Section 15 of the Code, it will hardly ever be necessary or expedient that they should be invested with these powers. The adoption of the above views need not cause any great alteration in the present practice. For short vacancies, the Commissioners might still accept the Collectors' nominations without question, but should gazette them as appointments made by themselves."

(L. R. No. 1177, dated 30th August 1883; *vide* G. R., J. D., No. 6825, dated 2nd October 1883.)

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24. Collectors are authorized to make refunds up to Rs. 100 in the following cases:—

(1) Assessment levied, at five or ten times the ordinary rates, on lands unauthorizedly occupied, and which on appeal to the Collector or Commissioner is remitted.

(2) Assessment levied on lands which are declared alienated by the Commissioner.

•• (3) Over-collections made by the village officers. The Collectors should, however, forward to the Commissioner of their Division a half-yearly statement of the refunds they may make without obtaining his sanction.

(G. R. No. 5246, dated 1st December 1869, and G. R., F. D., No. 720, dated 8th March 1887.)

25. Collectors are empowered to write off the arrears of judi leviable from watandárs up to the same extent as prescribed in the case of arrears due from ordinary revenue defaulters. Commissioners are likewise authorized to grant remissions of this item of revenue in cases in which they may exceed Rs. 100. The returns of remissions should include remissions of judi. (G. R. No. 6862, dated 15th September 1883.)

26. Authority may be delegated to the Collectors to grant refunds of over-collections made and credited to Excise to the extent of Rs. 100 in each case. (G. R. No. 8543, dated 10th December 1891.)

27. Assistant and Deputy Collectors are authorized to grant refunds of over-collections of revenue for current or previous years up to Rs. 50. (G. R. No. 1037, dated 7th February 1891.)

28. Assistant and Deputy Collectors are authorized to sanction refunds of Local Fund Cess up to Rs. 10.

The Accountant General should pass refunds of Land Revenue and Local Fund Cess for sums not exceeding Rs. 10 on vouchers signed by the Huzúr Deputy Collectors.

(G. R. No. 4581, dated 26th June 1893.)

29. Contingent bills of the Collectors need not be countersigned by the Commissioners of Divisions and the Commissioner in Sind. Such bills may be countersigned by the Collectors and sent to the Accountant General for audit. (G. I., F. D., No. 6541, dated 12th November 1874; *vide* G. R. No. 6125, dated 21st idem.)

30. Collectors are authorized to sanction, according to fixed rules, village expenses in surveyed districts, and the same, until the introduction of the revenue survey, in the case of villages in unsurveyed tracts lapsing to Government, or otherwise falling under their direct control. (G. R. No. 1037, dated 7th February 1891.)

31. Birth and death registers should be compared with each other and scrutinized each month

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as they are received and promptly tested by the district authorities. (G. R. No. 4607, dated 30th August 1879.)

32. Advances for the purchase of property under Section 325 (c) of the Civil Procedure Code should be debited to the Collector under advances repayable pending adjustment by re-sale. The amount of advances when necessary should be reported periodically to the Commissioners. (G. Rs. Nos. 2701, dated 14th May 1881, and 6093, dated 15th October 1881.)

33. The Legislature does not contemplate the exercise by the Collectors, for the purposes of Sections 22 and 29 of the Dekkhan Agriculturists' Relief Act, of the powers of a Civil Court in compelling the attendance of parties and witnesses and the production of documents, and any rule framed by Government conferring such powers would be *ultra vires*.

It seems to be the intention of the Dekkhan Agriculturists' Relief Act that the Court should indicate in its order to the Collectors, under Section 22 or 29, the property which he is to take into his possession. This is inferred from the fact that the Collector, acting as he does as a ministerial officer of the Court, has no judicial powers conferred upon him to enable him to ascertain what property does or does not belong to the judgment-debtor or insolvent or whether he is entitled to possession or not.

(L. R. No. 1507, dated 21st November 1883; *vide* G. R. No. 9107, dated 12th December 1883.)

34. Collectors are authorized to grant privilege leave to Head Accountants and Huzúr Treasurers serving in their respective charges. (G. R. No. 3785, dated 31st May 1890.)

35. Collectors have power to introduce Part II of the Village Sanitation Act of 1889 into villages without the previous sanction of the Commissioner, who can of course take such steps as he may consider necessary to enable him to exercise the power of control conferred on him by Section 6 of the Act. (G. R. No. 680, dated 30th January 1892.)

36 After consideration of the various inconveniences arising from the appointment of Collectors under Section 504 of the Civil Procedure Code to be Receivers in a greater number of cases than they can properly attend to, and in cases in which their appointment is not likely to be beneficial, the following rules have been prescribed for the guidance of Collectors in accepting or declining such appointments:—

“1. Collectors shall only consent to act as Receivers under Section 504 of the Civil Procedure Code in as many cases as they are from time to time of opinion they or, subject to their supervision, their subordinates can properly attend to, and shall exercise their discretion as to what cases they shall consent to act in.

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"2. They should decline to act in any case in which previous to their appointment they have not been consulted by the District Court as to their willingness to act.

"3. They should decline to act in every case in which, after enquiry, they find—

- (a) that the estate is of insignificant value : or
- (b) that, if they accept the office, no sufficient provision will remain for the support of the judgment-debtor and his family during the management ; or
- (c) that owing to the property being an undivided share, or for any such reason, the management will probably be attended with litigation or serious complications and difficulties of which it would be unreasonable to throw the burden upon the officers available for the management ;
- (d) that a more satisfactory method of dealing with the case would be for the Court to transfer execution of the decree under Section 320 of the Civil Procedure Code, if that section is applicable ; or
- (e) that the case is one to which the provisions of Section 326 of the Code ought to be applied, and to which they propose to apply those provisions.

"4. They should accept the office, as a rule, when the judgment-debtor is a person of rank and position, or the descendant of such a person, and there is reasonable hope of the management of his attached estate conducing to his advantage, and the judgment-creditor consents to a reasonable allowance being made out of the proceeds for the maintenance of such judgment-debtor and his family during the management, if he has no other sufficient means of support."

(G. R. No. 3913, dated 22nd May 1883.)

37. The appointment of a Collector as Administrator under Regulation VIII of 1827 is not made in his official capacity. On this point, the following decision passed by Sir M. Westropp, C. J., and F. D. Melvill, J., (reported at page 320 of the Bombay High Court Printed Judgments for 1880) is relied upon :—

'Regulation VIII of 1827 does not contemplate the appointment of a Collector as the Administrator of the estate of a deceased person in his official capacity as Collector, whereas Act XX of 1864 does provide for the appointment of a Collector, in his capacity as such, to be the Administrator of the estate of a minor. The Collector can be appointed Administrator under Regulation VIII of 1827 simply as any other individual may be appointed under that Regulation. The circumstance that, in the certificate of appointment he has been described merely as the Collector of Kaira,

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does not alter the case. The Court must be regarded as having appointed him Administrator in his individual capacity. It had not any power under the Regulation to appoint him in a quasi corporate capacity. If the Collector, originally appointed, was succeeded by a nother gentleman as Collector, the latter would not be warranted in acting as Administrator of the deceased without a revocation of the grant to the present Collector, and a fresh appointment of his successor as Administrator. * * * * * We hold that the circumstance, that the Administrator appointed in the present case under that Resolution is the Collector, does not deprive the Subordinate Judge of jurisdiction.'

There is no provision in Regulation VIII of 1827 requiring the Collector to take charge of, and administer the property of a deceased person as is contained in Section 11 of the Act XX of 1864 relating to estates of minors. It is no part of a Collector's duty under Regulation VIII of 1827 to administer such estates, and Government are in consequence in no way bound under that Regulation to allow the Collector to do so. If Government do allow him to do so, Government are no doubt entitled to charge the estate for all services performed by him or his official subordinates in that connection. It is undoubtedly open to Government to direct Collectors to decline in any case or class of cases to act as Administrators. But Government deem it unadvisable to leave it merely to the discretion of an individual officer, either to accept or to decline the appointment. If, however, there are special circumstances which in any case render the management of an estate by the Collector inexpedient, it is open to him to represent his difficulties to the Court in view to his appointment being revoked.

(G. R. No. 2527, dated 11th April 1890.)

38. Looking to the wording of Section 9 of Regulation VIII of 1827 * it seems exceedingly improbable that a Collector appointed thereunder as Administrator has any power to alienate the *corpus* of the estate under his administration. The section does not appear to contemplate that the person appointed under its provision should exercise the full powers of an owner in dealing with the estate. He is not appointed to administer the estate, but merely as an Administrator for the *management* thereof. He is spoken of as 'an Administrator *in charge*' only, and he may, on the right of succession being determined, be directed 'to *deliver over the property* with a full account of all receipts and disbursements.

The Collector is not appointed in his official capacity, and his successor in office would not, as such, be warranted in acting without a revocation of the

*A Regulation to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts.

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original appointment and a fresh appointment in his favour.

(L. R. No. 1788, dated 29th December 1892; *vide* G. R. No. 4095, dated 6th June 1893.)

39. An Assistant Collector is not to be put in charge of a treasury until he has passed at least one Departmental Examination, and the Collector has explained to him personally the details of the supervision required in superintending the daily transactions. (G. R. No. 3625, dated 26th July 1871.)

40. A District Deputy Collector is not qualified for the duty of Treasury officer until he has passed the Departmental Examination according to the second standard. (G. R. No. 3870, dated 8th July 1873.)

41. The object of Government in requiring a Junior Assistant Collector to discharge the duties of Treasury officer is not to enable him to pass examination, but to afford him experience of the control exercised by the Treasury officer over the accounts, receipts and payments of a whole district, and impress upon his mind the practical working of the account system and financial rules of which he has acquired a knowledge from books. The suggestion that an Assistant Collector could learn all that is necessary without being placed in actual charge of a treasury, does not commend itself to the Governor in Council, who considers on the contrary that, by attaching responsibility to the discharge of his duties of an office, the payment of proper attention thereto is most effectually secured. A treasury

ordinarily* consists of two departments, that of the accounts and that of the cash. It is intended by Government that

a Junior Assistant Collector should in such cases be placed in actual charge of both departments and discharge *all* the duties of Treasury officer. In the discharge of those duties he will be aided by the Deputy Collector in permanent charge. (G. R. No. 1861, dated 8th March 1889.)

42. As it is not possible in Poona to put an Assistant Collector in charge of the Cash Department, in future Assistant Collectors in that district should attend the treasury in some other district with a view to their qualifying for the necessary certificate under the rules for the examination of junior Civilians. (G. R. No. 2749, dated 11th April 1839.)

43. The intention of the Resolution of the Government of India, No. 355,* dated 18th January 1882, was that full responsibility should primarily attach to the Assistant Collector for all the duties

* Extracts from the Resolution of the Government of India, Department of Finance and Commerce, No. 355, dated 18th January 1882; *vide* G. R., F. D., No. 469, dated 19th February 1882:—

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he discharges *quid* Treasury officer during his period of charge 'in training.'

"His Excellency the Governor General in Council is pleased to direct—

1st.—That no Covenanted Civil Servant (including Military and Uncovenanted Officers in the Commissions of Non-Regulation Provinces) shall be placed in charge of a district treasury, except for the purpose of training as provided in paragraph 7 of this Resolution, or as a strictly temporary measure, pending the arrival of a Deputy Collector (or Extra Assistant Commissioner) appointed to the post.

2nd.—That all special emoluments accompanying in any locality the charge of a treasury shall cease from April 1st, 1882. If the amount of these should, in any province, be considerable, it may be specially reported by the Local Government when replying on the subject of revision of salaries to the letters from the Department of Finance and Commerce, dated 28th December 1881.

3rd.—That the charge of district treasuries shall be entrusted to Deputy Collectors, but may be combined with such definite charge of magisterial, revenue, municipal, or other work as may not be incompatible with the efficient performance of the primary duty of treasury administration.

4th.—That the Deputy Collectors entrusted with the charge of treasuries shall be, as far as possible, officers selected from among the whole body of Deputy Collectors for acquaintance with, or aptitude for, accounts which they may have evinced, and that, though rising in the general graded list of Deputy Collectors, they shall ordinarily be employed on treasury duty at one station or another, and thus gradually become the trained and experienced agency which is desired. Sub-divisional treasuries, which are peculiar to the Lower Provinces, may, under the same general principles, be placed in charge of Deputy Collectors or of officers of the Sub-Deputy class, as to the local authorities may in each case seem expedient. It will be distinctly understood that officers in charge of treasuries should not be in any inferior position, as regards prospects of promotion, to others in the graded list who may be differently employed, and that efficiency in treasury management shall not be overlooked.

"6. The appointment of young Civilians, and of supernumerary and probationary Deputy Collectors, who have not passed all or any of their examinations, appears to have been a fruitful source of laxity and irregularities on the part of subordinate officials. His Excellency the Governor General in Council directs that this practice may be discontinued, and that (except as provided in paragraph 7) no Deputy Collector remain hereafter in charge of a district treasury unless he has passed the departmental examination according to the higher standard, and has also been not less than three years in the service of Government. (G. I., F. & C., No. 550, dated 2nd February 1883; *vide* G. R. No. 625, dated 14th idem.)

"7. In order to ensure a better acquaintance with the system of treasury accounts, and of the revenue accounts which in some provinces are an important contributory to the accuracy of the latter, His Excellency the Governor General in Council is pleased to direct—

1st.—That examination in treasury and local fund accounts and in departmental revenue accounts shall form a part of the test obligatory on all Assistant and Deputy Collectors or other officers at the departmental examinations according to both the lower and higher standards. The scope of the questions at the former will necessarily be somewhat elementary, but at the latter the candidate should be required to exhibit a satisfactory general acquaintance with the whole system of accounts as prevailing in the province in which he is employed. A paper of questions on treasury and local fund accounts, set by the local Accountant General or Comptroller, should form a part of the examination under each standard.

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There is, however, no express decision either in the Government of India orders quoted or elsewhere as to who should have custody of the keys, and the orders of the Government of India seem certainly by implication to exact responsibility for 'general supervision' from the 'Deputy Collector ordinarily in charge or some other competent officer on the spot.' It is therefore inferred that the Deputy Collector's responsibilities do not cease in respect of either the Treasurer's or the Accountant's Department when a Junior Civil Servant is posted to treasury work for the purpose of training. So far as the custody of treasure, stamps, &c., is concerned, the safest and simplest course would be for the keys to be always retained in the custody of the officer in permanent charge of the treasury, the Junior Civilian being required to be present when the treasury is opened or locked up.

It is no doubt desirable that the work of the Junior Civilian should be reviewed by the Deputy Collector in charge of the treasury so as to prevent fraud, mistakes and irregularities. The Deputy Collector should initial all documents of value or importance in token of his examination, after they have been passed by the Junior Civilian. Payment orders should be signed by the Junior Civilian first, but before the vouchers are actually paid, they should be initialled by the Deputy Collector. In every case the Junior Civilian should originally dispose of all treasury business as if he were in independent charge, and only after it has passed through him should it go to the Deputy Collector for review, except in petty cases in which the Assistant Collector will be solely responsible. This order of procedure should not be allowed to be reversed; otherwise there would be a tendency on the part of the Junior Civilian to sign documents on the security of the initials of the Deputy Collector.

Vernacular correspondence with officers in charge of the sub-treasuries should be conducted by the Huzúr Deputy Collector.

(G. R. No. 7645, dated 7th November 1891.)

2nd.—That every 'Covenanted' Officer, or Deputy Collector, shall, until he has passed the higher departmental examination, be placed, for purposes of training, in charge of a district treasury under the general supervision of the Deputy Collector ordinarily in charge, or some other competent officer on the spot, for a period not less than six weeks or more than two months in each year. A certificate from the Collector of the District, that the officer in training has, under these provisions, duly attended to, and satisfactorily discharged the duties of Treasury officer shall be indispensable to the examinee being declared to have passed any departmental examination.

"8. (With reference to the inspection of treasuries, His Excellency the Governor General in Council trusts that, under the provisions of the last preceding paragraph, executive officers of all grades will gradually become more competent to perform the duty of inspecting treasuries. This duty is of the utmost importance, and is clearly defined in the Resolution No. 1796, dated 24th July 1880, which is to be considered as still in full force.) Collectors of Districts are not to consider that by the improvement of the arrangements for the immediate charge of treasuries their own responsibility is in any sense diminished."

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44. It is desirable that all Junior Civilians should obtain a general knowledge of the details of the operations of the Survey Department preparatory to the introduction of a survey settlement, and with a view to their attaining such knowledge, Collectors should each year in the month of June, so long as survey operations are in progress in their districts, communicate to the Superintendent of Survey the names of any officers of less than 7 years' standing who require to be instructed; and the dates from which to which their absence from their ordinary duties can be most conveniently spared, and the Superintendent will then name the establishments to which they should be attached.

Survey establishments work in the field from about the beginning of November until the end of May, and during this field season the junior officers referred to should be present with a measuring establishment for about a fortnight, and with a classing establishment for about a month; within these periods a fair knowledge of the practical nature of survey operations should with ordinary attention be easily acquired.

To connect the field operation with the settlement papers it is desirable that the junior officers in question should attend at the office of a measuring and of a classing Assistant for a few days during recess season and go through the complete papers of one or two villages; two or three days would be sufficient for this, and they would then be entitled to a certificate of general knowledge of the practical part of survey operations which will be granted by the Superintendent of Survey.

(G. Ra. Nos. 4957, dated 27th August 1881, and 5984, dated 11th October 1881.)

45. If a Junior Civilian under 7 years' standing is employed on revenue duties in any district in which a revenue survey establishment is working in connection with original or revision settlement, or in any district within a reasonable distance from or within easy access of such revenue survey establishment, he shall be required to avail himself of the opportunity of acquiring a practical knowledge of the operations of the survey by joining the officer in charge of the establishment and working with him for such short period as may be prescribed in each case.

(2). On or before the 31st October in each year the Superintendent of Survey shall address the Collector of each district to which his survey charge extends, informing him of the locality in which each establishment will be working, the period during which it is likely to be employed in that locality, and the name of the officer in charge.

(3). If more than one measuring or classing establishment be employed in the same district at the same time, the Superintendent shall intimate to the Collector the name of the Assistant in charge who, in his opinion, is the most experienced and best fitted to impart instruction.

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(4). The period for which a Junior Civilian shall be attached to a measuring establishment shall ordinarily be one fortnight. In the case of a classing establishment it shall not be less than one month.

(5). The Collector of the district in which the Junior Civilian is employed shall make arrangements to relieve him of his ordinary duties for the prescribed period. It shall be his duty to instruct the Junior Civilian as to the particular establishment he should join, and to fix the date on which he should be relieved of and should return to his ordinary duties.

(6). After the prescribed course with either a measuring or classing establishment has been completed, a certificate in the Form A appended shall be prepared by the Assistant Superintendent in charge and forwarded to the Superintendent of Survey for countersignature. It shall be the duty of the Superintendent to satisfy himself as far as possible that the certificate is correct and that the time passed with the survey has been profitably employed.

(7). The Junior Civilian shall ordinarily be required to obtain a certificate of having acquired a knowledge of measuring with a measuring establishment before he shall be attached to a classing establishment. If, however, there be no measuring establishment but only a classing establishment employed in the district, the opportunity of learning classification of soils should on no account be lost.

(8). An account of the time spent with a survey establishment and how it was occupied shall be added to the Assistant Collector's annual administration report. The annual administration report of the Collector shall also contain full information as to how the orders of Government on this subject have been carried out.

(9). An annual return of all certificates granted during the year shall be forwarded by the Superintendent to the Survey Commissioner for communication to Government. The return shall be in the Form B appended, and shall be forwarded so as to reach the Survey Commissioner not later than the 15th July of each year.

(Note.—It is not the intention of Government that the Junior Civilian should be required to become either a skilled measurer or classifier of soils, but it is their wish that he should obtain such a general knowledge of the methods of procedure in each case as will enable him fully to appreciate the settlements which result and to subject them to intelligent criticism. To attain this end it is not advisable that Junior Civilians should be required to join Assistant Superintendents of Survey whose establishments are employed upon extraordinary duties such as bend-demarkation in Gujarát or breaking up of 'warkas' numbers in Ratnágiri: they should only join establishments which are engaged in field work directly preceding original or revision settlements.)

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APPENDIX A.

Form of Certificate.

I, A. B., Assistant Superintendent, Revenue Survey, do hereby certify that Mr. C. D., of the Bombay Civil Service, has been attached to the E Establishment of this survey for a period of days from the to the , both days inclusive, during which time he has accompanied me times to take tests and that he has acquired a fair practical knowledge of the measuring (or classing as the case may be) operations of the revenue survey and of the circular orders relating thereto.

(Signed) A. B.,

Assistant Superintendent
Revenue Survey.

Countersigned.

Superintendent, Revenue Survey.

APPENDIX B.

Statement of Certificates granted by the Superintendent, Revenue Survey, to Junior Civilians who have been attached to the Survey during the year ending 30th June 188 .

No.	Name of Junior Civilian.	Appointment held by Junior Civilian.	To what Survey Establishment attached.	Name of officer in charge of the establishment.	Whether employed on measuring or classing.	Date of issue of certificate.	Remarks.
1	2	3	4	5	6	7	8

(Signed)

Superintendent, Revenue Survey.

(G. R. No. 4958, dated 27th August 1881.*)

46. Junior Civilians who appear for their higher departmental examinations should not be required to produce the certificates mentioned in the rules sanctioned by Government Resolution No. 4958, dated 27th August 1881, showing that they were attached to

* Junior Civilians under instruction in survey operations are regarded as temporarily transferred to the Survey Department, and as such are subject to the provisions of Article 1161 of the Civil Service Regulations, under which the Survey Commissioner exercises the powers of a Local Government to exempt officers under him from the operation of Article 1159, for their halts in excess of 10 days, after satisfying himself that the conditions of that article have been fulfilled. (A. G.'s memo. No. G. A.-1412, dated 23rd August 1895; *vide* G. R., F.D., No. 3074, dated 7th September 1895.)

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the establishment of an Assistant Superintendent of Survey, &c. (G. R. No. 3265, dated 26th April 1883.)

47. A Junior Civilian should not be required to obtain a practical knowledge of classification and be attached to a revenue survey classing establishment for this purpose under the rules sanctioned by Government Resolution No. 4958, dated 27th August 1881, until he has been in revenue charge of a táluka or tálukas for twelve months and has acquired a knowledge of land revenue administration and work. (G. R. No. 8238, dated 8th November 1883.)

48. Measuring and classing are two distinct operations, and an officer cannot learn both simultaneously. It is not material that a Junior Civilian should have had revenue experience and been in charge of tálukas before he learns measuring, which is a simple technical operation. (G. R. No. 10405, dated 24th December 1885.)

49. In districts where there may be only one Assistant Collector, the Commissioners should consider the merits of each case, and where they consider the disadvantage resulting from the absence of the Assistant to outweigh the advantage of the special knowledge gained, they are authorized to excuse the Assistant from joining a survey party. (G. R. No. 7125, dated 16th October 1891.)

50. The Native Assistant to the Commissioner is the confidential adviser to the Commissioner in matters relating to the character and qualifications of the numbers of native officials subordinate to the Collectors. It is his duty to advise on complicated questions relating to the tenures and customs of the country; and he has to see, by personal examination, when on tour with the Commissioner, that the vernacular revenue accounts are properly kept with the minutest details.

The Uncovenanted Assistant to the Commissioner is the head of the English as distinguished from the vernacular branch of the office. He has to draft ordinary letters, to summarize the correspondence received from the several Collectors, to compile statistical information, and to examine and scrutinize travelling bills and other English accounts and statements submitted to the Commissioner.

(G. R. No. 807, dated 17th February 1871.)

(iii) *Tours and Inspections.*

1. A bullock cart is not the proper kind of conveyance in which a British officer, holding the important position of Assistant Collector, should travel about his districts. (G. L. to the Commissioner, S. D., No. 5736, dated 28th October 1880.)

2. In Government Resolution No. 4259, dated 14th August 1880, district officers were reminded that they were expected to ride in the discharge of their duties. But it has come to the knowledge of Government that some young officers, though they

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must have furnished certificates to the Secretary of State of their having undergone a course of instruction in equitation, are either unable to ride or avoid doing so.

The fact that such a certificate is required proves that it is considered by the Supreme Government necessary that officers should frequently move on horseback, and it is needless to show that no officer can have a sufficient acquaintance with his district, and be active in moving about it, who does not habitually ride.

Officers in charge of Collectorates should report without delay if any of their Assistants, and especially of those lately joined, cannot ride with facility in order that he may be ordered to a station where he can be properly instructed and practised in riding.

(G. Rs. Nos. 2932, dated 4th May 1882, and 775, dated 29th January 1891.)

3. It is not necessary that native gentlemen holding the office of District Deputy Collector should be required to go through a course of equitation at a riding school. Riding is, however, highly conducive to the usefulness of native as well as of European district officers. Mámldárs should, therefore, be reminded that Government will, as a rule, consider an ability to ride as contributing to their fitness for promotion. (G. R. No. 3747, dated 10th June 1882.)

4. Civil Officers going through a course of equitation should pay the charges on that account themselves. As the persons to whom the payments have to be made in cases of this nature are people to whom prompt payment is probably a matter of importance, bills of this description should on presentation be paid at once by the Collector, who should debit the different sums to the personal heads of the officers concerned. If any doubt exists as to whether the charge should be defrayed by the officers instructed or by Government, a reference on the subject can then be made to Government, and the final adjustment can be effected in accordance with the orders passed on such reference. (G. R. No. 295, dated 13th January 1883.)

5. The Commissioners of Divisions being unanimously of opinion that the practice hitherto prevailing of Assistant and Deputy Collectors in charge of talukas making a second inspection of the Mámldárs' kacheris in their respective charges is unnecessary, and that the time so spent might be more usefully employed in visiting other parts of their charges, it is ruled that the second inspection at the close of the season is not compulsory. It is of course desirable that this second inspection should be made if the Assistant or Deputy happens to be at the Mámldár's station.

Assistants and Deputies should spend at each Mámldár's station not less than seven days, and

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at each Mahálkari's station not less than five days during each year. But where a Mahálkari has charge of a sub-treasury, the rule as to Mámlatdárs' stations should apply to Mahál stations also.

(G. R. No. 5815, dated 13th August 1886.)

6. The above orders are also applicable to Sind with certain modifications. The orders maintain the examination in the early part of the season as that which must necessarily be made, but in Sind it is hardly advisable to do this because it is the first examination which chiefly interferes with special Sind work, *e. g.*, remission enquiries, bigoti measurements and test of village registers for jamábandi purposes. On the other hand, at the time that the examinations at present known as the second examination of táluka accounts are carried out it is too hot for the Assistants to be engaged in Sind in field work, but it is very possible for them to visit the head-quarters of the tálukas in their charge and examine the accounts. It is also the most useful time for such a circuit, as by that time any orders passed by the Collector or Commissioner when visiting tálukas on tour should have been forwarded and can receive the personal attention of the Assistant Collector in charge of the sub-division; and lastly the inspection, if made late in the season, interferes less with the field work of the Mukhtyárkars.

Having regard to these considerations, in Sind it is better to maintain the second examination of táluka accounts as the examination *obligatory* on Assistant Collectors. It will, of course, be possible also to carry out the first examination in some tálukas as well as the second, and different tálukas should be selected each year so as to distribute this examination as far as possible. In the annual administration report explanation should be given as to why the first examination of the accounts has or has not been made in each táluka.

(G. R. No. 7268, dated 13th October 1886.)

7. When the orders which required two examinations of each Mámlatdár's office to be made were relaxed, Government did not intend that the second examination should not, if possible, be made; and when an Assistant Collector finds it convenient to visit a Mámlatdár's station a second time he should, if possible, make a second examination. (G. R. No. 1425, dated 26th February 1892.)

8. The Commissioners should obtain from the Collectors returns of circuit and examination of village accounts and should see that the Collectors and their Assistants perform their circuits properly and supervise efficiently the village accountants. It will be the duty of the Commissioners on their tours to test the efficiency of the work reported in these returns and to inform Government of any neglect or serious disregard of orders that may be observable. (G. R. No. 2876, dated 17th August 1860.)

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9. The Governor in Council does not doubt that officers of such high standing as Collectors are fully alive to the importance of their having opportunities, as far as circumstances will permit, of inspecting annually every part of their districts, and examining the accounts and records of all the Mámíatdárs serving under them. It may not be always practicable or advantageous for them to visit every táluka in the course of a year, but Government must trust to their judgment and sense of duty for the due regulation of their movements. (G. R. No. 5138, dated 25th September 1874.)

10. The question regarding the tours of Collectors is one on which it is undesirable that there should be a very hard and fast rule, and it may be left to the Commissioners to deal with according to the circumstances of each district. If an officer is fit to be a Collector, he is fit to judge for himself, subject to such control as the Commissioners can best exercise, how the travelling season can best be utilized in the public interests. So long as every Mámíatdár's and Mahálkari's office is thoroughly examined at least once in every two years, and the jamábandí of two tálukas is done every year by the Collector, so that all may come under his supervision in turn, he may be left to arrange his tour as he thinks best. In the very unlikely event of any misuse of his discretion, the Commissioners have authority and opportunity to check it. (G. R. No. 6719, dated 18th September 1893.)

11. Government expect Collectors to be engaged for at least four months in the year in visiting their districts and the several Mámíatdárs' kacheris and satisfying themselves that the orders for the guidance of revenue, magisterial and police officers are duly enforced.

Little or no good will be obtained by officers making rapid raids over their districts. What is required is that the personal influence and supervision of the European officer should be felt. To this end each Assistant should be required to divide his time equally amongst the several tálukas in his charge; and ought, without inconvenience, to spend two months in each. It is not necessary or advisable that he should be constantly on the move. Some six encampments in each táluka, combined with occasional visits to surrounding villages for the purpose of examining accounts, receipt books, and boundary-marks, and for generally exercising that amount of percentage examination which constitutes the special business of the higher Revenue Officers under the Rayatwar system that prevails in this Presidency, will suffice. It rests mainly with the Commissioners to see that the orders of Government in this respect are duly enforced, and the examination of the monthly travelling bills affords them the best opportunity for doing so.

(G. R. No. 4767, dated 4th October 1870.)

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12. The Commissioners should take care that sufficient time is spent by the Collectors at the Mámlatdárs' kacheris which they may visit to enable their establishments thoroughly to examine the accounts and compare Huzúr Form No. III with the táluka books, and in such order that no táluka station may be left unvisited for two seasons consecutively. This is essentially necessary in Collectorates where there is no Daftardár. (G. R. No. 4923, dated 3rd October 1871.)

13. Assistant Collectors are enjoined to be in their districts at least seven months in the year, and during that time they should visit every táluka in their charge. A discretionary power is given to the Commissioners as regards the seventh month, but any case in which this discretionary power is made use of should be reported to Government. (G. Rs. Nos. 5515, dated 14th December 1869, and 5923, dated 1st December 1870.)

14. When an Assistant Collector is placed in charge of the Sadar Station during the travelling season, the time during which he is so engaged is not to be included in the five months during which it is allowable for him to remain at head-quarters; but no additional time is to be allowed if he is re-employed during the four months from the 16th June to the 16th October. (G. R. No. 2837, dated 14th June 1871.)

15. Government do not consider it necessary to lay down any rule as to the particular five months during which an Assistant Collector can reside at the Sadar Station without forfeiture of his travelling allowance, beyond saying that four of them are to be the monsoon months. In all, an Assistant Collector will be allowed five months out of the twelve, and if during the four months from the 16th of June to the 16th October he is called upon to do duty at the Sadar Station, no extra time will be allowed him in consequence of his being thus employed. (G. R. No. 3719, dated 2nd August 1871.)

16. It should be the object of Collectors and Commissioners, especially of the former, to move about with as small an office establishment as possible, and to arrange for mere clerical work being done at head-quarters. (G. R. No. 2011, dated 28th April 1871, and G. R., F. D., No. 1648, dated 29th May 1874.)

17. There is certainly nothing in the orders of Government that can warrant the conclusion that it is their wish that Assistant Collectors should make frequent encampments. On the contrary it is the express desire of Government that they should remain stationary for lengthened periods at central and accessible places, and do their work of inspecting the surrounding villages from these centres. As far as possible, most parts of each táluka should be visited, but this can generally be done without

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frequently changing camp. (G. R. No. 4966, dated 16th September 1874.)

18. It is not the wish of Government that Assistant Collectors should be constantly on the move. In every way it will be better for them to make a few central camps and to make village inspections from thence. They should note in the final column of the form in which their camping places are entered, the fact of their having visited thence so many villages as they may have been at for official inspections. (G. Rs. Nos. 5645, dated 4th October 1876, and 6072, dated 8th October 1877.)

19. The practice of district officers visiting as many villages as possible from a central camp is preferable and should be carried out as far as possible. District officers should visit frequently the poorer and more remote villages in their charge, make themselves acquainted with the ways of their inhabitants, gain their confidence and learn their real grievances. (G. Rs. Nos. 10079, dated 16th December 1885, and 7103, dated 6th October 1886.)

20. The diaries of Assistant Collectors should be kept in the following form :—

DIARY of the ASSISTANT COLLECTOR in charge of the
 of the District for the month of 189 Tálukás

The following is a true return of the places which I have visited on public duty during the month. The places at which I resided are underlined :—

Names of Villages.	Táluka,	No. of Days at each Camp.			Remarks
		From	To	No. of days.	

Forwarded to the Collector.

Camp

Dated

Assistant Collector.

(G. Rs. Nos. 724, dated 31st January 1887, and 2989, dated 13th May 1887.)

21. It is disadvantageous to the public service that an Assistant Collector in charge of tálukas should be absent from his post for half a month of the open season in order to take part in University Examinations. (G. R. No. 6600, dated 5th November 1881.)

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22. The Deputy Commissioner, Thar and Párkár, should spend at least seven months of the year in his district. (G. R., F. D., No. 1685, dated 4th June 1888.)

23. The circumstances of the Thar and Párkar District are peculiar. The Deputy Commissioner is his own Superintendent of Police. He and his Personal Assistant do the whole work of the district, and for five months of each year live in Hyderabad, about 60 miles distant from the nearest point of it, 90 miles from Umankot and about 150 miles from Nagar Párkar, the head-quarters of the most distant desert táluka. The inconveniences to the people from the protracted absence from the district of all officers of higher grade than that of Mámlatdár must be very great; the arrangement is a bad one administratively, and should obviously be improved as circumstances will allow. (G. R. No. 4334, dated 26th June 1891.)

24. In all cases in which any examination of the táluka accounts cannot be held, the Collector should depute his Daftardár to supply the deficiency. (G. R. No. 5706, dated 21st November 1872.)

25. The orders of Government passed so long ago as 1844 and 1850 are that "Assistant Collectors are expected frequently to examine the rayats' receipt-books in different villages and to compare them with the entries in the village books, and it is better to give but a short notice of the intention to do this;" and that "these enquiries should, as often as possible, be carried out on the spot, as if the rayats are required to attend at the Assistant Collector's camp some miles from their houses, not only will a great many of them stop away, and great inconvenience be caused to the rest, but it will be difficult also to get the same amount of information in case of disputes." In the remarks on the form of receipt-book in Hope's Manual of Revenue Accounts it is stated that the examination of receipt-books "should be made by Assistants and Deputies during their tours without previous warning and sometimes at villages distant from their camps."

The practice of calling rayats to a camp for the examination of their receipt-books is contrary both to the letter and the spirit of these orders. The primary object of the examination, which is to check fraud by ascertaining that receipts are punctually given by village accountants for all money received by them from rayats, will be frustrated if the rayats are called to the camps of district officers, and particularly if they are allowed to come at their own time. Not only would the receipt-books of such rayats as are willing to travel to the camp be got into order, but care would be taken that no rayat who had been defrauded was called. And the practice would probably result in villagers being occasionally required to attend for days at the officer's camp, the possibility of which should be guarded against.

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Nor can it be perceived that there is any difficulty in carrying out the instructions of Government in this matter without interfering with office work. Assistant and Deputy Collectors can spend an hour in one or two villages in the course of a morning's ride, and they are ordinarily sufficiently acquainted with the language of the district to be able to check the entries in the receipt-books by comparison with the ledger and the *vivâ voce* statements of the rayats without the assistance of a kârkûn.

For these reasons Government must insist on the instructions regarding the examination of rayats' receipt-books being strictly carried out, and it will be the duty of the Commissioners to see that these orders are carefully attended to by the officers concerned.

The detailed examination of village accounts can, as a rule, be conveniently done by Assistant and Deputy Collectors only in their camps, and the Governor in Council does not object to this practice. The examination of village records, on the other hand, which work has to be shown separately in the prescribed statement, and which consists principally of seeing whether the papers are kept in accordance with orders, can usually be best done in the villages, and it is not expedient that village officers should be required to carry all their records to distant places. The records are not, however, usually very bulky, and there would be no hardship in requiring those of villages within a few (say 5) miles of the camp to be brought to the camp. Government do not desire to interfere unnecessarily with the discretion of district officers in this matter. But when it is found that an officer visited for all purposes only 43 villages in the course of the year while he examined records of 109, there is reason to infer that he travelled too little and made the village accountants travel too much.

(G. R. No. 1806, dated 17th March 1882.)

26. It is not intended by the foregoing order that no notice should be given, but that it is better that but short notice should be given of the intention to examine receipt-books. (G. R. No. 7558, dated 6th October 1883.)

27. Objections to the rules for the examination of rayats' receipt-books have been very frequently answered, but as regards the general complaint that under the present system cultivators are not found in the village it seems necessary to point out again the precise nature of the orders. The objections proceed on the assumption that it has been directed that the examination should be made 'without previous warning' interpreted in the most literal sense. That phrase is used in Hope's Manual of Revenue Accounts, but the orders in force since 1844 are that but short notice should be given of the intention to make the examination, and no exception has ever been taken to the issue of sufficient notice to the village officers to permit of the

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assembling of such cultivators as are willing to attend. What is strictly prohibited in Government Resolution No. 1806, dated 17th March 1882, is the practice of calling rayats to a camp for the examination of their receipt-books. (G. R. No. 9166, dated 19th November 1884.)

28. It is distinctly not the intention of Government to require a large amount of perfunctory and hurried examination of rayats' receipt-books, in place of other useful and important work. The time has not yet come of dispensing with these examinations, which however fruitless they may be in disclosing irregularities, act as a valuable preventive against overcollection by village officers. They bring district officers into personal contact with village communities, and give them opportunities for testing the accuracy of vital statistics, and for making themselves acquainted with the condition, wants and grievances of the cultivators. (G. R. No. 775, dated 29th January 1891.)

29. As regards the examination of boundary marks and receipt-books, His Excellency in Council is willing that precedence be given to more important or more urgent duties, but considers it is essential for effective supervision that the Collector as well as Assistants should take some test of this part of the work of village accountants. The Collector cannot ride through the district without seeing whether boundary-marks are in good repair or not, but the marks which he sees in this manner are principally those in the vicinity of the roads which village officers are usually astute enough to keep in good order though others may be neglected. Although the rayats themselves do not evince much interest in the matter, regular scrutiny of their receipt-books is calculated to prevent as well as to detect fraud. There is nothing which justifies the assumption that the orders of Government are to be carried out with so little intelligent discretion as to summon cultivators from the village in which an officer's camp is and in which they reside to a distant village in which their land lies. (G. R. No. 8276, dated 27th November 1882.)

30. It is not necessary for an Assistant Collector to postpone his test of the inspection of boundary-marks till the second examination by the village officers is completed. (G. R. No. 6837, dated 2nd October 1882.)

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PART III.—MA'MLATDARS, MAHA'KARIS AND
MUKHTYARKARS.*

1. Government will not allow Mámíatdárs to be treated ignominiously by any persons under its control. (G. L. to Revenue Commissioner, N. D., No. 289, dated 23rd January 1860.)

2. Kacheris being public offices are open to the public, and every one visiting a kacheri will be there received by the Mámíatdár, or other senior native official, in a manner befitting his rank. The Mámíatdár, being responsible for the maintenance of order in his office, will take proper steps to prevent improper persons entering, or misconducting themselves while there. (G. R. No. 4432, dated 11th December 1863.)

3. Kacheris should, as a rule, be built inside the towns. (G. R. No. 398, dated 19th January 1882.)

4. Mámíatdárs are authorized to appoint inferior village servants, *i.e.*, others than Pátels, Kulkarnis and Talátis. They may grant leave of absence—

1st.—To Peons and Talátis one month in each year without a substitute, and three months with substitute.

2nd.—To Pátels and Kulkarnis three months' leave on due provision being made for the performance of their duties.

3rd.—To all other village servants twelve months' leave subject to the same provision.

4th.—To all Kárkúns, including the first, as al leave under the ordinary rules.

It is to be clearly understood that no leave of any description is to be granted to any officer if inconvenience to the public service will thereby result, or unless arrangements have been made for the employment of a substitute. The Mámíatdár may enter in the accounts the names of the heirs of deceased holders of khalsat lands, or of holders of inám lands to which the summary settlement has been made applicable. He will, however, report for orders such cases as from the number of claimants, the difficulty of establishing the heirship, or some other intricacy he may feel himself incompetent to decide.

The Mámíatdár will make, without special orders, in each case deductions, under the rules in force, from allowances and stipends, &c., unclaimed for years. The Collector may at his discretion withhold any of these powers from Mámíatdárs whom he may not consider fit to be entrusted with them.

(G. R., F. D., No. 595, dated 20th May 1867.)

5. Mámíatdárs are bound to afford to Europeans all legitimate aid and assistance in their power, and to see that the Pátels exert themselves towards obtaining supplies for adequate payment. It is the

* See also Chapter headed "MA'MLATDARS' COURTS"

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duty of Mámíatdárs to call on gentlemen who may arrive in their tálukas on duty, and to show them every courtesy and respect. (G. R. No. 2129, dated 27th May 1869.)

6. Either the Mámíatdár or his Head Kárkún should certify to the correctness of the accounts in the pass-book referred to at page 172 of the High Court Circulars (Civil), 1889 Edition. (G. R. No. 6753, dated 16th December 1873.)

7. There is no more important part of an Assistant Collector's duties than that of vigilantly supervising the manner in which the Mámíatdárs perform their work, and of seeing that a proper distribution of the Mámíatdár's establishment is maintained. It is true that the establishments are barely sufficient for the duties required of them; but a great saving and economy of labour can be effected by insisting that a particular class of work is done at a particular season of the year. Thus during the months of November, December and January, Mámíatdárs, by a little forethought and arrangement, will be able to depute extra hands on out-door inspection work; while, during the rains, the general duty Kárkúns might profitably be employed on indexing and sorting records and other employment of a sedentary nature. Assistant Collectors ought constantly to keep themselves acquainted with the manner in which the Mámíatdárs are utilizing their subordinates. (G. R. No. 5077, dated 22nd September 1874.)

8. The attention of District officers is called generally to the necessity for checking the apparently increasing tendency on the part of Assistant and Deputy Collectors to make over to Mámíatdárs work which can suitably be done by themselves. Mámíatdárs are so frequently overburdened with work connected with various departments that it is desirable that they should be relieved when possible of portions of their revenue work rather than be directed by their immediate superiors to conduct investigations, take down written statements, &c., when such work can be conveniently done by the Assistant or Deputy Collectors personally. Amongst other cases some of those under Section 86 of the Land Revenue Code, which are frequently very numerous, might with advantage be dealt with by Sub-Divisional Officers; but this is a matter the details of which may be left to the discretion of Collectors. (G. R. No. 6561, dated 16th September 1890.)

9. For the purposes of the Leave Code in so far as the granting of privilege leave is concerned, Collectors should be regarded as the Mámíatdárs' Heads of Departments. (G. R. No. 3513-A., dated 7th July 1880.)

10. An officer while in the service of Government in the position of Mukhtyárkar cannot be licensed to practise as a Pleader. (G. R. No. 8272, dated 24th November 1886.)

11. The salaries of Mámíatdárs are personal. This rule extends to the Mámíatdárs' charges in a Commissioner's Division.

The salaries of Maháلكaris also are personal, within the area of the Collecterates to which they belong.

(G. I., R., A. & C., Nos. 1110, dated 31st December 1874, and 354, dated 5th May 1875; *vide* G. Rs. Nos. 296, dated 18th January 1875, 2769, dated 14th May 1875, and 2017, dated 27th March 1882.)

12. Maháلكaris are entitled to acting allowance when acting for Mámíatdárs. (G. R., F. D., No. 4942, dated 15th November 1877.)

13. Under Article 109 of the Civil Service Regulations, the lien of all Mámíatdárs and Mukhtyárkars who have been, or may hereafter be, appointed on probation, on their substantive appointments is suspended. (G. R. No. 2181, dated 26th May 1892.)

14. Care should be taken to appoint Mámíatdárs invested with first class powers to remote tálukas, and, if necessary, to give them the more serious cases in one or more adjoining tálukas, the object being to relieve the parties from having to undertake long journeys to the Assistant Collectors' camps. (G. R. No. 7203, dated 7th December 1876.)

15. Commissioners of Divisions should require Collectors to keep them informed annually of the character and qualifications of Mámíatdárs serving in their respective districts, and should record the information so furnished in a confidential register in which the Commissioner shall also note their own opinion of the character and efficiency of the Mámíatdárs after personal communication with them, and observation of the general condition of their Mámíats. All circumstances officially brought to notice which are calculated to affect a Mámíatdár's efficiency should be entered in this record, and promotions from grade to grade should, as a rule, be determined by seniority, provided there are no unfavourable remarks on record which should, in the Commissioner's opinion, debar a Mámíatdár's claim to promotion. Collectors should make their reports regarding Mámíatdár's character and efficiency from *personal* observation only. A copy of the report made regarding a Mámíatdár by a Collector should only be given to the Mámíatdár when the report is unfavourable, and calculated to affect his prospects of future promotion. (G. Rs. Nos. 826, dated 9th February 1881, and 4596, dated 2nd July 1890.)

16. Vacancies in the list of Mámíatdárs should be filled up by the promotion thereto of qualified men available in the Division in which the vacancies occur. But if a Commissioner has no graduate or other qualified candidate in his own Division to fill up a vacant Mámíat, he should obtain one from one of the other Divisions. He should, however, exercise

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discretion and not select in ordinary circumstances a graduate or other qualified candidate for appointment to a Mámlat in a district with the vernacular of which he is unacquainted. (G. Rs. Nos. 8314, dated 12th November 1883, 9096, dated 12th December 1883, and 1639, dated 28th February 1890.)

17. Mámlatdárs transferred from British to foreign service shall ordinarily be considered entitled to receive substantive grade promotion during their absence for a period of five years from the date of their transfer. On the expiration of that period they shall not receive any further promotion unless they are accorded special permission by Government to remain in foreign service without such disability. (G. R. No. 6154, dated 1st September 1899.)

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PART IV.—KA'RKU'NS AND PEONS.

1. The appointment of Huzúr treasurers is vested in the Commissioners. (G. R., F. D., No. 311, dated 10th March 1869.)

2. Huzúr treasurers should receive an increase of Rs. 50 per mensem after 10 years' approved service. Shroffs in the Presidency proper should attain their maximum pay by two quinquennial increments of Rs. 5 each. The maximum salary to which surveyors on the establishments of Collectors are to rise after ten years' service is Rs. 100 in the case of those who commence with Rs. 75, and Rs. 75 in the case of those who commence with Rs. 50. The selection of the surveyors should be confined to men actually on the establishment of a Superintendent of Survey. Any deviation from this rule that may, for special reasons, be thought desirable should be reported for the previous sanction of Government. The date from which the services of the surveyors are to be reckoned for increase of pay after ten years' service is to commence from the time they are employed as surveyors under the Collectors.

It is not necessary that specific cases in which the decennial increase of pay falls due should be submitted to Government for sanction.

(G. Rs. Nos. 426, dated 31st January 1868, 3233, dated 26th August 1868, 4177, dated 7th November 1868, 6027 dated 25th July 1892, and 8972, dated 6th December 1893; and G. Rs., F. D., Nos. 4026, dated 10th November 1883, and 4539, dated 18th December 1883.)

3. To draw up lists of Head Accountants in the form of separate divisional lists instead of one consolidated list, would lead to a partial or complete ignoring of the claims of senior men at a distance as compared with junior men on the spot. In making the appointments of Head Accountants either a Commissioner will simply give promotion in his own Division, which is not expedient, or he will have regard to the claims of Head Accountants outside it, which is the present system. If all the Commissioners are always informed of the merits of all the Head Accounts in the Presidency, it would only be necessary for a Commissioner in filling a place to consult the general list and select the man he thinks most eligible, and under such an arrangement no trouble of entering into correspondence with the other Commissioners need arise. For these reasons it is considered that the Head Accountants should be graded on the list as at present, the Commissioners exchanging information when necessary as to their merits, and regulating promotions with a general regard to seniority and efficiency. A Commissioner would, however, still exercise some discretion in filling up vacancies, and would not be bound to weigh nearly equal claims too scrupulously. (G. R. No. 12, dated 3rd January 1884.)

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4. The pay of Head Accountants should be local, and promotion among this class of officers should be strictly by merit. (G. Rs. Nos. 426, dated 31st January 1868, and 6998, dated 9th October 1891.)

5. The Head Accountants in Sind should be required to pass the same examination as other Head Accountants. (G. R. No. 3853, dated 2nd July 1831.)

6. Head Accountants transferred on promotion to a district with the language of which they are not acquainted should pass an examination in that language within one year of their transfer. Failing to do this, they should be liable to a deduction of 10 per cent. from their pay till they do pass, or are transferred to a district the language of which they know. (G. R. No. 6998, dated 9th October 1891.)

7. The pay of the office of Collector's Chitnis should be raised to Rs. 150 and the appointment should be graded with those of Mámlatdárs. Collectors are allowed with the sanction of the Commissioners to make selection among the whole body of Mámlatdárs in the Division concerned, and pick out the men best qualified for the work of Chitnis. The tenure of the appointment of Chitnis should be limited to five years.

No person now being a Chitnis, who has not passed the Higher Standard Departmental Examination, should be deemed eligible for transfer from the post of Chitnis to a Mámlat until he has passed such examination. (Some of the men serving as Chitnises to whom the Higher Standard Examination is not open may be quite fit for the post of Mámlatdárs. Each such case should therefore be dealt with separately on its merits.)

No person, not being already a Mámlatdár, shall hereafter be appointed to be a Chitnis, unless he has passed the Higher Standard Departmental Examination.

(G. R. No. 8881, dated 23rd December 1891; and 4213, dated 16th May 1892.)

8. The Collectors should not appoint as their Chitnises any but men who are already Mámlatdárs. (G. R. No. 4213, dated 16th May 1892.)

9. Privilege leave vacancies of Chitnises should be filled up by the Collector as in the case of similar vacancies among Mámlatdárs. (G. R. No. 517, dated 19th January 1893.)

10. To the general duty Kárkúns is allotted the supervision in all matters of revenue administration of a certain number of villages. They have to see that the accounts are properly kept; that the rayats have their receipt-books punctually written up; that the cultivation returns are carefully made out; that the boundary marks are kept in proper repair; and, in short, that the multifarious duties, inseparable from a system by which each individual rayat pays his rent direct to the State, are duly performed. The services of these men will also be avail-

able (in rotation) to conduct the Mámlatdár's revenue correspondence, and for any special enquiry on which the Mámlatdár may have to depute them. It will probably be found necessary that they should be absent some five or six months from the kacheri during the year. A strict adherence to the system of division of labour is the only means by which individual responsibility, and, consequently, individual efficiency, can be secured. The nature of the supervision of European and highly paid officers in revenue matters is necessarily confined to a percentage examination of the work of their subordinates. Under the system here described, an Assistant, or Deputy Collector, in examining the accounts of a kacheri, or the boundary marks of a village, will, at once, be able to call to account the individual responsible for any negligence. Collectors and their Assistants should pay particular attention to these instructions and see that they are duly attended to. Each officer in charge of a taluka should keep a list of the Kárkúns employed in it, and the particular duties and villages assigned to them. (G. Rs. Nos. 3338, dated 21st September 1866, and 3875, dated 8th September 1869.)

Note.—In all districts (except Kolába and Rataágiri) to which the scheme for the appointment of Circle Inspectors has been extended, bhág kárkúns have been relieved by Government Resolution No. 6828, dated 5th October 1891, of all duties with respect to the examination of rayats' receipt-books and of village daftars.

11. When Supernumerary Assistant Collectors happen to be in charge of districts, they will obtain Kárkúns from the number sanctioned for each district, and if they are employed at the Huzu'r, they will obtain Kárkúns from the number sanctioned for the Huzu'r Establishments. (G. R. No. 937, dated 6th March 1869.)

12. Supernumerary Assistants should always be attached to a permanent establishment, and the officer who avails himself of their services should provide the requisite clerical agency. (G. R. No. 1078, dated 13th March 1869.)

13. Privilege leave may be granted to Kárkúns on the order of the Assistant or Deputy Collector in charge of the taluka. (G. R., F. D., No. 595, dated 20th May 1867.)

14. It is not desirable that persons holding the position of Head Kárkúns should seek election as representative members of Local Boards. Such action may lead to abuses and unfavourable comments. (G. R. No. 1458, dated 18th February 1885.)

15. In the case of subordinate ungraded appointments on Collectors' establishments, the rule should be that on the return from foreign service of the permanent holder of an appointment the temporary holder should revert to his own substantive appointment on which his lien may have been reserved. (G. R. No. 7460, dated 9th November 1888.)

16. The clerical establishments of the District Superintendents of Police should, with the exception

PART IV.] [REVENUE OFFICERS AND SERVANTS.

of the Account Branch, be recruited from the Police force instead of from the Revenue establishment. (G. R. No. 1957, dated 22nd March 1892.)*

17. Supernumerary Assistant Collectors not in charge of talukas are to be allowed one peon each, and a second peon may be allowed when such officer is placed in regular charge of one or more talukas. The Superintendent of Police should furnish orderly sepoy for attendance during the trial of magisterial cases. (G. I., A., R. & C., Nos. 126, dated 27th July 1871, and 5629, dated 9th November 1871; *vide* G. Rs. Nos. 3877, dated 12th August 1871, 4127, dated 25th August 1871, 4475, dated 12th September 1871, 5629 dated 9th November 1871, and No. 670, dated 6th February 1874.)

18. Commissioners are authorized to sanction the entertainment of extra peons for Supernumerary Assistants according to the rule without reference to Government. The Commissioners' countersignature on the bills for pay of these temporary peons is not necessary. If a copy of the sanction accorded by the Commissioner is appended to the first bill on account of the peons, it will suffice. (G. Rs., F. D., Nos. 918, dated 6th April 1872, and 2033, dated 17th July 1885.)

19. Two peons ought to suffice for the Huzúr Deputy Collector who does not travel. (G. I., F. D., No. 1878, dated 12th July 1871; *vide* G. R. No. 3877, dated 12th August 1871.)

20. The allowances sanctioned for farashes in Sind may be paid to such peons as may be actually employed to do the work of farashes in addition to their own duties whenever separate servants are not available for the work. (G. R. No. 6770, dated 10th October 1888.)

* *Vide* also G. Rs., J. D., Nos. 728, dated 3rd February 1894, and 5167, dated 25th July 1894.

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PART V.—PHOTOZINCOGRAPHIC DEPARTMENT.

1. The Government Photozincographic Office, Poona, should be under the supervision of the Commissioner, C. D. (G. R. No. 1319, dated 16th February 1893.)

2. The appointment of Superintendent, Government Photozincographic Office, Poona, should be regarded as being open to a Military Officer. (G. R. No. 7190, dated 19th October 1891.)

3. The establishment of the Photozincographic Office, with the exception of that which has been from time to time expressly sanctioned as temporary, should be treated as permanent.

The Survey Commissioner may entertain temporary and non-pensionable establishment for the Photozincographic Office within the limit of Rs. 114. This limit is not to be exceeded in any month save where the Commissioner sanctions an increase against savings in the permanent establishment, in which case he should record a specific order showing how the savings on the permanent establishment are calculated.

(G. R. No. 3991, dated 1st June 1889.)

4. The Superintendent of the Government Photozincographic Office, Poona, is authorized to purchase in the local market English coal in small quantities as required from time to time for the use of his office. (G. I., F. & C., No. 2016, dated 18th April 1888; *vide* G. R. No. 2766, dated 2nd May 1888.)

5. In regard to stores required for the use of the Photozincographic Office it is not considered desirable to restrict the supply entirely to such firms as may be named in the indents, in cases where no speciality exists and where the articles can be better and more economically obtained from actual manufacturers. Due consideration, however, will always be paid to any recommendations which may be made as to any firms, who will, as a rule, be given an opportunity of tendering with others.

It will be convenient, if there be any doubt whether the description given in the indent is of itself sufficient, that samples of the articles required be sent. (S. of S., No. 7-Fir. I., dated 17th April 1890; *vide* G. R. No. 3558, dated 22nd May 1890.)

6. The articles, specified in the margin, required for the use of the Government Photozincographic Office, Poona, may be obtained on regular indent from the Secretary of State, subject to the condition that when any of them can be obtained locally of the required quality they should be so obtained, and that whenever any articles of the kind are included in the

Nitric acid.
Sulphuric acid.
Hydrochloric acid.
Litho black ink
chalk.
Red lead.
Linseed oil.
White wax.
Lamp black.
Brown paper.
White brown paper.
Blotting paper.

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annual indent, an explanatory memorandum should be furnished in accordance with the orders contained in paragraph 11 of the Resolution of the Government of India, No. 185, dated 10th January 1883, quoted in the preamble of Government Resolution, Financial Department, No. 595, dated 13th February 1883. (G. R. No. 1375, dated 24th February 1892.)

REVENUE OFFICERS AND SERVANTS.] [PART VI.

PART VI.—REPORTS.

(i) *Land Revenue Administration Report.*

1. The Annual Land Revenue Administration Reports are required by the Government of India on the 1st of May. The Commissioner in Sind and the Commissioners of Divisions should submit in future their respective reports by 15th February and 1st March. (G. R. No. 3656, dated 28th May 1891.)

2. Government must insist on being supplied in the jamabandi reports with full details about the causes of large balances of revenue remaining outstanding.

All the jamabandi statements relating to areas cropped or cultivated must be given by talukas, as well as by districts and divisions, as the Secretary of State desires to have those details.

In sending the jamabandi statements to the Commissioners, the Collectors should, apart from the information given in their Annual Administration Reports, explain briefly, from a fiscal point of view, all the principal fluctuations in the revenue and cultivation, and the Commissioners must embody all important explanations in their own reports.

(G. R. No. 6092, dated 27th October 1875.)

3. Both the area of land under well cultivation, the number of wells supplied directly from the canals and the number not so supplied, as well as the revenue derived therefrom, should be precisely shown in the Annual Reports on the Revenue Administration of Sind. (G. Rs. Nos. 6097, dated 28th October 1875, and 2398, dated 20th April 1876.)

4. The Annual Revenue Reports of the Divisional Commissioners should contain full information* on the subject of the processes found necessary for the realization of the revenue, with reference to the quantity of land which may be attached or sold for arrears. (S. of S. No. 37, dated 16th September 1880; *vide* G. R. No. 5638, dated 23rd October 1880.)

5. The Commissioners should review in detail the facts relating to coercive process which, while supplying important evidence of the general moderation of the assessment and the soundness of the revenue system indicate the cases in which particular remedy or general reform may be required. (G. R., R. D., No. 7303, dated 13th October 1899.)

6. The Commissioner in Sind and the Divisional Commissioners should insert in their annual jamabandi reports a paragraph describing in full and sufficient detail the action, if any, taken by the Collectors under Rule 85 of the Rules under the

* Note.—This information is furnished in Jamabandi Form G.
p 1955—412 R#v

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Land Revenue Code, which empowers Collectors to fix other dates for payment of instalments where those prescribed by the rules may be found to be unsuitable. (G. R. No. 5473, dated 14th August 1882.)

7. It would tend to elucidate many of the facts stated in the jamábandi reports if the character of the season in each district were briefly indicated, and the Commissioners should give this information in their reports. (G. R. No. 5391, dated 20th July 1883.)

8. Though the ordinary season reports are no longer submitted by the Commissioners, yet a subject so closely connected with the collection of the revenue as the general character of the crops should not be altogether omitted from a report purporting to deal comprehensively with revenue administration. (G. R. No. 5745, dated 24th August 1888.)

9. Failure to collect any appreciable amount of *recoverable* revenue in the year following that in which it falls due should always be specially explained in the jamábandi reports. (G. R. No. 5140, dated 22nd July 1890.)

10. The collections of land revenue shown in the revenue accounts should be compared in the annual jamábandi reports with those recorded by the Accountant General as is done in the case of income tax. Information should also be given, if possible, regarding the extent to which collections are made before and after the 1st April in each revenue year. (G. R. No. 5420, dated 2nd August 1890.)

11. The following instructions should be carefully attended to in the compilation of Jamábandi Return No. 8 in Collectors' offices, and of Appendix IV A (5) to the General Administration Report in the Commissioners' offices:—

Column 2—Classes of villages.—In some districts, as in Khándesh, details are not shown under different tenures comprised within classes 2 and 3. Under the Manual* these must be shown, and separate details under each kind of tenure should invariably be given.

**Vide* concluding portion of paragraph 2 of the remarks on T. F. No. 27.

Column 3—Total Area.—Care should be taken to preserve a tally between areas returned under Agricultural Return No. 1 and under Jamábandi Return No. 8. This tally can easily be secured if Mámlatdárs are directed to compare and check the area figures entered in T. F. No. 27 with those returned under T. F. No. 36.

Columns 4—7—Exempted or privileged areas.—The whole of the areas returned under classes 4 and 5 being shown in columns 4—7, no further detail regarding these classes of villages should be

REVENUE OFFICERS AND SERVANTS.] [PART VI.

entered under columns 8—10 and 14—22 which treat of fully assessed area. The same procedure should be followed in respect to class 3 (other Government villages for which statistics are *not* available).

Columns 12, 21, 23 and 24.—In these columns both the population and number of towns should

invariably be returned according to the current Imperial* Census and *not* according to T. F. No. 34 (Annual Census). In cases where population details vary from those returned by the Imperial Census owing to territorial changes, a foot-note explaining the variation should be added to the return.

(G. R. No. 5173, dated 23rd June 1892.†)

(ii.) *Collectors' Administration Reports.*

1. The Consolidated Administration Reports which were substituted by Government Resolution No. 5091 of October 12th, 1871, for the numerous reports and returns on various subjects previously required from Assistant and Deputy Collectors having been found very fully and satisfactorily to satisfy the purposes for which they were designed, His Excellency the Governor in Council is pleased to extend the system to the Collectors themselves.

(2). All Collectors are to submit to the Commissioner on 1st August in each year, *at latest*, a general report in the form given below. The Assistant or Deputy Collectors' reports each bearing such separate remarks upon it as the Collector may think necessary, are to be appended to it. A slavish adherence to the forms of statements, if any columns are obviously not required either on account of general instructions or of circumstances peculiar to the district, is not required.

(3). The rules relating to Assistant and Deputy Collectors' reports, which are laid down in paragraph 6, clauses *a, d, e, f, g, and h*, of the Government Resolution quoted above, are to be considered applicable to the reports of Collectors also. It would not serve any good purpose to direct that the notes left by officers delivering over charge should be sent to the Commissioners confidentially or otherwise. If the notes are not full and useful, the fact will be apparent from the report. There can be no objection to the Commissioners calling for the notes, if they see special reason for doing so. The officers who write the reports should state whether their predecessors left notes or not, and whether the notes are full or otherwise.

† The columns of Jamābandi Return No. 8 referred to here are those as given in the Form of the Return printed at page 322 of the Manual of Revenue Accounts, 3rd Edition. By Government Resolution No. 9773, dated 10th December 1895, the Form of this Return has been revised.

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(4). The scope of these reports will be best understood from a study of the form. They are not intended to be a mere condensation or compilation of the reports of the Assistants or Deputies, but rather to avoid, as far as may be, traversing the same ground as the latter, and to depict the Collectorate as a whole, from the Collector's point of view, including his personal action in it, and his matured opinion on its condition. No information indicated in the form should be on any account omitted; but it is hoped that Collectors will not consider themselves limited to the bare record of facts which it prescribes. Government will be glad to receive their general views and opinions on the principal topics referred to, such as the pressure and incidence of the land assessment, the condition of the people in respect to indebtedness, the working of the Local Fund system, &c., provided they are based on personal observation, and expressed without prolixity.

(5). The period embraced by the report will, whenever possible, be the twelve months which expired on the 30th of June previous; but to this there are several exceptions, in which the information must be for the financial calendar or other special year.

(6). It is the earnest desire of Government to relieve Collectors, as far as possible, of the labour of miscellaneous periodical reports on various topics, and it is believed that the present arrangement will conduce materially to this end.

(7). Commissioners should send on the Collectors' reports as they are received, with their own comments, and they will not be required to forward any administration report of their own. Of course this does not do away with their own annual jamabandi reports.

(8). It must be readily admitted that the information now called for is no more than a Government, and even Collectors themselves, ought to be in possession of, and that it is procurable without the preparation of new and vexatious reports and returns. Government trust with confidence to the zeal and efficiency of Collectors and their establishments to furnish it with punctuality and precision.

(G. Rs. Nos. 2346, dated 11th May 1874, 3024, dated 15th June 1874, 5317, dated 13th September 1881, 8276, dated 27th November 1882, and 2113, dated 13th March 1883.)

2. The object of the Collectors' reports is to give a brief account for the year of the Collector-Magistrate's administration in all important matters, reflecting his relations with the people under his charge, his impressions of their condition, progress or retrogression; showing the state of agriculture and other principal interests and of law and order, his control of his subordinate officers, and his observations on such administrative agencies as Local Boards and Municipalities. (G. R. No. 724, dated 31st January 1887.)

REVENUE OFFICERS AND SERVANTS.] [PART VI.

3. A great deal of the information supplied in Collectors' Administration Reports is of a merely statistical and formal nature, instead of being a concise summary of the *personal* impressions and opinions of the Collector who writes the report, or, if he has but recently joined, of his predecessor. Such "statistics" as Government require regarding the various branches of administration are obtained separately and in a more convenient form, and the object of a Collector in writing his administration report should be rather to illustrate his remarks by statistics than to collect statistics and find explanations of them. Attention is invited to the concluding sentence of paragraph 5 of Government Resolution No. 724, dated 31st January 1887:—"If a Collector feels that he has nothing to say on these points, there is no occasion for him to write anything." This principle should be kept in view throughout an administration report. (G. R. No. 775, dated 29th January 1891.)

4. The reviews by the Divisional Commissioners of Collectors' Administration Reports should, following the Sind practice, be submitted in print and in such a form as to enable Government to dispense with a further detailed review for each district.

The Superintendent, Government Central Press, should print these reviews which will be sent to him for the purpose direct by the Commissioners of Divisions. The Commissioners need not distribute copies of the reviews, as copies will be distributed from the Secretariat.

(G. M., G. D., No. 2632, dated 4th July 1890, and G. M., R. D., No. 5485, dated 7th August 1890.)

APPENDIX II.

(FORM OF COLLECTOR'S ADMINISTRATION REPORT.)

From

A. B., Collector and Magistrate of _____
and Political Agent;

To

C. B., Commissioner, _____ Division,
July 15th, 1874.

Sir,

I have the honour to submit the annual report*

	Area, square miles.	Population by census of
Collectorate ...	2,000	700,000
Native States ...	1,000	150,000
Total ...	3,000	850,000

on the administration of this Collectorate for the year ending June 30th. *That on the political duties, which with it constitute my*

* Note.—The Government of India in their Resolution No. 35-2079, dated 21st December 1875, (G. R., G. D., No. 814, dated March 8th 1876), directed that the District and Political Officers should furnish along with the other statistics in their administration reports information regarding printing presses; vide Appendix F *infra*.

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charge, has been addressed to Government in the Political Department. The whole has been under me since January 6th, 1870.

(Note.—Collectors should see that the information given in their Annual Administration Reports relates only to British territory. Separate reports are submitted regarding Native States: G. R. No. 2885, dated 4th April 1884.)

2. The officers who have been at my disposal during the year under report are as per margin.* The manner in which their services have been utilized is shown in Appendix A.

* First Assistant Collector	1
Second do.	1
Supernumerary do.	2
Huzár Deputy do.	1
District do.	1
Special do.	2
Inspector of Cotton and Agriculture	1

3. The Administration Reports of the three officers in charge of divisions are forwarded herewith, accompanied by my remarks upon each.

II.—GENERAL CONDITION AND RESOURCES.

4. Season and rainfall.—The season has on the whole been an unfavourable one. The rainfall as per margin was below the average, and moreover came too late and ceased too early to suit any class of crops. A heavy flood in September injured the low-lying fields on the banks of the principal rivers.

RAINFALL AT HEAD-QUARTERS.	
Average of preceding five years.	Current year.

(1. Note.—It is a matter of considerable importance that the measurement of the rainfall should be in all cases as accurate as possible, and the Collector should endeavour to have this result ensured. What is required for the Administration Reports is a statement of the rainfall which affects the cultivation of the year of report. The figures should not, therefore, be given for the calendar year. It is believed that the calculation is usually made correctly from the beginning of one rainy season to the beginning of another, but to prevent the possibility of a mistake, it is directed that the figures should always show the quantity of rain which fell from 1st May to 30th April. The 1st May is fixed as the beginning of the year for the calculation, because occasionally showers in May facilitate the preparation of the land for sowing: G. Rs. Nos. 7035, dated 9th October 1882, and 1350, dated 17th February 1883).

(2. Note.—Collectors should describe the general state of the crops of their districts clearly and very concisely in words. Anna estimates may be omitted if they cannot be relied on, and such estimates are obviously useless and misleading when they are at variance with the general description of the crops furnished by the Collector: G. R. No. 775, dated 29th January 1891.)

5. The rural population, according to the village returns, appear to have increased about one per cent. The rates of births and deaths are, respectively, 18 and 30 per 1,000, showing much room for improvement in the registration. Allowance must, however, be made for immigration.

July 1872.	July 1873.	1873-73.	
		Births.	Deaths.

REVENUE OFFICERS AND SERVANTS.] [PART VI.

(1. *Note.*—Information regarding the tests taken by district officers regarding the registration of vital statistics should be given: G. R. No. 886, dated 4th February 1869.)

(2. *Note.*—A careful analysis of the results of the annual census as they affect the Kunbis should be made each year by the Assistant in charge of the Jambusar Taluka of the Broach District, opportunity being taken during the season to test the correctness of the birth and death registers by personal enquiries. The Collector of Broach should make note of the results of analysis of vital statistics among the Kunbis in his annual reports: G. R. No. 5943, dated 3rd September 1867.)

** 6. The public health has been *good* and the

	1872-73.	1873-74.
Dispensaries		
In-patients		
Out-patients		

amount of relief afforded by the dispensaries* *much the same* as in the preceding year. *No special*

epidemic appeared except small-pox, which prevailed for a couple of months in two talukas near the coast.

(1. *Note.*—The Collector should give a brief account of the public health and also should state the remedial measures adopted in the case of an outbreak of epidemic disease: G. R. No. 724, dated 31st January 1888.)

(2. *Note.*—Information regarding village sanitation should be embodied in this paragraph: G. R. No. 7236, dated 21st October 1891.)

Year.	Cattle.†	Horses and ponies.	Sheep and goats.	Carts.
1872 ...				
1873 ...				

7. Agricultural stock *advanced slightly*, as will be seen from the marginal summary.

A disease resembling rinderpest broke out in some villages of taluka but was checked by the prescribed remedies after a loss of about 200 head of cattle.

(1. *Note.*—Collectors will not be in a position to make any trustworthy and useful comments on the variation in agricultural stock until the month of September, and such comments should be submitted to Government in a supplementary report in the month of September, and copies thereof furnished to the Director of Land Records and Agriculture with the Annual Return of Agricultural Stock: G. R. No. 2258, dated 31st March 1891.)

(2. *Note.*—In commenting on unusually large fluctuations in agricultural stock, Collectors might with advantage state the results of any observations that may have been made regarding migration of flocks and herds to and from neighbouring districts and States: G. R. No. 8435, dated 5th November 1889.)

8. The price of labour *has continued to fall*

Year.	Wages per diem.		Carts per diem.	Camels.‡
	Skilled.	Unskilled.		
1872-73 ...				
1873-74 ...				

steadily ever since 1869, and is now lower in every important branch than it was this time last year.

* Civil hospitals towards which municipalities contribute are not to be considered as dispensaries. (G. R. No. 3209, dated 24th June 1874.)

† Asses, camels and elephants are not to be included under the head cattle. (G. R. No. 4249, dated 21st August 1878.)

‡ Camels, donkeys, pack-bullocks, boats, or whatever may be most in use in each particular district, should be shown here.

PART VI.] [REVENUE OFFICERS AND SERVANTS.

9. The prices of produce exhibit *similar depression, which cannot be traced to any exceptional circumstances.* A few of the articles of consumption in this Collectorate are quoted in the margin.

Articles.	Quantity per rupee, per standard seer.	
	On March 31st 1873.	On March 31st 1874.
Wheat		
Dál... ..		
Rice common		
Jowári		
Cotton		

depression, which cannot be traced to any exceptional circumstances. A few of the articles of consumption in this Collectorate are quoted in the margin.

The whole will be found in Appendix B.

10. Takávi advances under Acts XIX of 1883 and XII of 1884 and the special sanction of Government have been made to a considerable extent this year. The greater

Year.	Under Act XIX of 1883.	Under Act XII of 1884.
1872-73 ...		
1873-74 ...		

the special sanction of Government have been made to a considerable extent this year. The greater

portion has unfortunately been for objects denoting poverty in the agricultural classes, rather than enterprise for the purpose of improvement.

(1. *Note.*—The Collector should have always under observation the system of advances whether under the Act XIX of 1883 or Act XII of 1884, the extent to which they are utilized, the views entertained of them by the agriculturists, the efforts made to explain the rules under the Acts and the obstacles to their free use. If a Collector feels that he has nothing to say on these points there is no occasion for him to write anything: G. R. No. 724, dated 31st January 1887.)

(2. *Note.*—For the sake of uniformity the details regarding takávi advances given in the reports should be for the year ending 30th June: G. R. No. 1425, dated 26th February 1892.)

3. *Note.*—Information as to the instalments of takávi loans due for recovery during the year should be given in the following form: the totals in columns 2, 5, 6 and 7 should include both capital and interest, separate figures being shown in a footnote:—

Tálukas.	Balance outstanding on April 1st.	Advances during the year.	Total for recovery.	Amount recoverable during the year.	Amount recovered or adjusted.	Balance outstanding on March 31st.
1	2	3	4	5	6	7

(G. Rs. Nos. 752, dated 24th January 1896, and 2541, dated 20th March 1896.)

11. Manufactures and Trade.—The chief manufactures of this district are of *cotton printed goods and silk.* The demand for these is said to have been *fair* this year, but *principally for exportation.* Local trade generally has *not flourished* owing to *the indifferent season and diminution of earnings*

(*Note.*—What is wanted is not an annual enumeration of local manufactures, but that the Collector should give the result of any observation he may have made on the recent progress or retrogression of local trades or manufactures, the causes thereof, the tendencies of trade, its markets and so on. If there is nothing new to relate, the Collector may record a blank. (G. R. No. 724, dated 31st January 1887.)

12.* Fairs.—The great annual fair at *was not as well attended as usual,* and the value of sales

* *Vide note below paragraph 11.*

REVENUE OFFICERS AND SERVANTS.] [PART VI.

amounted to *only* Rs. against Rs. in the previous year. The attendance was estimated at Minor markets and fairs are held at places including additional ones sanctioned this year under *Bombay Act IV of 1862*.

13. The general condition of the people is at present *far from satisfactory*. *Low prices prevail, with no present prospect of a recovery; the rayats are unable to pay off the loans they contracted in more prosperous times, and the money-lenders are making unsparing use of the Civil Courts against them.*

(*Note*.—This paragraph is important, as in it should be mentioned emigration, immigration, facts as to land passing out of cultivation or being taken up, the effect of the rise or fall in prices on agriculture and trade, absorption of small holdings into large debt and the money-lenders' relations with the people: G. R. No. 724, dated 31st January 1887.)

III.—REVENUE.

(a) *Ordinary Administration.*

14. The Jamábandi Settlement was effected before March 15th in all tálukas *except the reasons given for delay in which by the Assistant Collector (Mr.) appear to me unsatisfactory.*

Táluka.	Date of commencement of Jamábandi.	Date of completion.
A.		
B.		

The jamábandi of two tálukas (or as the case may be) was done by me in person during the periods stated in the margin.

Add brief explanation, as in old paragraph 29 (without the table) why the tálukas named were selected.

(*Note*.—As regards the Jamábandi Settlement, paragraph 14 and the Results, paragraph 15, what seems to be wanted is a statement of the money fixed for collection under the principal heads: G. R. No. 724, dated 31st January 1887.)

15. The results of the settlement of the tálukas mentioned in the last paragraph were noted down in my office at the time and are as follows:—

Year.	LAND REVENUE.			LOCAL FUNDS.		Interest.	Total for Collection.
	Remissions.	Alienations.	Revenue for Collection.	Remissions.	Revenue for Collection.		
1872-73							
1873-74							
More							
Less							

Items arising subsequent to the preparation of the village tharāvbands have not been included. The chief causes of decrease and increase are as follows:—(brief explanation).

(1. *Note*.—Receipts on account of tolls on Provincial roads are not Local Fund revenue and should not therefore be included in the amount showing the Local Fund Revenue for collection: G. R. No. 758, dated 2nd February 1882.)

(2. *Note*.—The statement purports to show the results of the Jamábandi Settlement, and should therefore include only such

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items of revenue as are settled at the jamabandi. The column for Local Funds should not include road and ferry tolls, &c., but only the one-anna cess and such minor items as are settled at the jamabandi. It should be briefly stated in the body of the report what are the principal items of which the amounts entered in the statement are composed: G. R. No. 759, dated 2nd February 1882.)

(3. *Note.*—Interest recovered from defaulting Abkari farmers should not be shown amongst the results of the Jamabandi Settlement: G. Rs. Nos. 9794, dated 11th December 1884, and 1679, dated 3rd March 1886.)

(4. *Note.*—The Collector's report should contain only the statistics for the district as a whole; and information regarding the talukas specially settled by him in person should be supplied by him to the Sub-Divisional Officers concerned for incorporation in their reports: G. R. No. 8243, dated 10th December 1888.)

16. *The remissions granted have been trifling and principally on account of destruction by the flood mentioned above.*

Paragraph 17. The realizations of revenue of all

Items.	De- mands.	Collections August 1st to June 30th.	Probable col- lections in July.	Probable balance on July 31st.
Land Revenue...				
Sayar-Abkari...				
Local Funds ...				
Interest ...				
Totals ...				

kinds up to 30th ultimo and the probable state at the end of the year, are given in the

margin. As far as it is now possible to judge, nearly all the balance on July 31st will eventually be realized.

(*Note.*—The demands for the current year should be distinguished from those of previous years by the figures for the latter year being written separately in red ink in this table: G. R. No. 4565, dated 5th September 1878.)

17. The progress of the realization up to June 30th of the land revenue of the district, not including

Demand.	Collections up to 31st March.	Balance on 1st April.	Collections from 1st April to 30th June.	Balance.

revenue assigned to Local Funds or credited to Public Works Department, is shown in the marginal table. As far as it is now possible

to judge, nearly all the balance on July 31st will eventually be realized. (The table will be compiled from the four vasulbaki statements and the monthly returns of collections.)

(*Note.*—The demands for the current year should be distinguished from those of previous years by the figures for the latter year being written separately in red ink in this table: G. R. No. 4565, dated 5th September 1878.)

18. *Abkari.*—Remarks on the system, its bearing on the people as an instrument of taxation, and of the restriction of the use of liquor should be entered herein.

19. The amount of pressure which it has been necessary to exercise up to the 30th April, in order to recover the above, may be inferred from the particulars given in the margin. *It is believed that few additional cases will arise in the last quarter of the year.*

Year.	Total number of occupancies.	Number of notices served.	Percentage of notices served to total occupancies.	PENALTY UNDER SECTION 148 OF THE LAND REVENUE CODE.*		DISTRRAINTS.				NUMBER OF OCCUPANCIES TRANSFERRED.		REVENUE PAYERS.		Number of persons confined.	
				Number of cases.	Amount due.	Number of cases.	Percentage to total occupancies.	Amount realized.		Number.	Percentage to total occupancies.	Number.	Percentage of increase or decrease.		
								Sale of property.	Sale of occupancy.						
1880-81...	..														
1879-80...	..														
Increase	...														
Decrease	...														

* (Vide G. R. No. 7458, dated 6th October 1883.)

(1. *Note.*—In Ratnagiri the Collector should contrast the number of notices and distraints required against khoti tenants with those issued against dharekari or Government tenants: G. R. No. 4674, dated 2nd September 1879.)

(2. *Note.*—For the purposes of more accurate comparison the pressure exercised up to the end of June or the year previous to that to which the Collector's Administration Report relates and that for the month of July should be shown separately. The figures in column 2 should show the total number of occupancies in the district and not the number of occupancies in villages in which pressure was exercised: G. R. No. 4827, dated 2nd October 1882.)

(3. *Note.*—The number of all revenue payers and not only of those who pay without coercion should be shown in column 13. Revenue payers include recognized sub-sharers, and the number in column 13 will not therefore necessarily be the same as the number of occupancies shown in column 2: G. R. No. 606, dated 24th January 1883.)

(4. *Note.*—The transfers of occupancies required to be shown in the table are such transfers as have been brought about by the employment of coercive processes. The previous column shows the amount realized by the sale of occupancy, and the object of the column regarding the transfer of occupancies is to show the number of occupancies from the sale of which the amount was realized. Transfers of occupancies from the name of one person to another in the same family which are not connected with coercive processes should not be included in the number of transfers shown in the table: G. Rs. Nos. 1121, dated 5th February 1884, and 1251, dated 9th idem.)

(5. *Note.*—Only superior and inferior holders who pay the Government assessment should be classed as revenue payers, and tenants should not be included in the number: G. R. No. 8669, dated 26th November 1883.)

(6. *Note.*—The number of occupancies transferred by private sale should not be shown in the statement of measures taken for the realization of revenue: G. R. No. 1088, dated 16th December 1885.)

(7. *Note.*—In the figures in column 2 of the statement only such occupancies as come within the meaning of clauses 17 and 18, Section 3 of the Land Revenue Code, should be included: G. R. No. 3956, dated 3rd June 1886.)

(8. *Note.*—The Collector of Ratnagiri should in his Administration Reports give information regarding the pressure found necessary in the case of occupancy tenants of khoti land in Ratnagiri: G. R. No. 29, dated 5th January 1892.)

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20. Forests.—There has been considerable increase in the forest revenue during the past year owing to the introduction of departmental cutting. Forest demarcation has been proceeded with and will be completed in one more season.

Year.	Receipts.	Expenditure.
1872-73 ...		
1873-74 ...		

Free grants of timber have been made by the Collector under the prescribed rules to the extent shown in the margin. The large increase is owing chiefly to a fire which destroyed nearly the whole village of

Year.	VILLAGE CHAUDIS, &c.		VILLAGE TEMPLES, &c.		AGRICULTURISTS.			
					Houses.		Implements.	
	Cases.	Amount.	Cases.	Amount.	Cases.	Amount.	Cases.	Amount.
1872-73 ...								
1873-74 ...								

The large increase is owing chiefly to a fire which destroyed nearly the whole village of

(Note.—The Collector should notice forests not from the point of view of the Forest Department, but as they relate to the present and future interests of the cultivating and pastoral classes: G. R. No. 724, dated 31st January 1887.)

21. Special Taxation.—Here report on any special taxation which may from time to time be in force.

(Note.—The Collector should record briefly his views about the Income Tax, popular feeling regarding it, whether it is evaded, its incidence on classes, and whether the collection is as it should be: G. R. No. 724, dated 31st January 1887.)

22. Minors' Estates.—There were minors' estates

Number.	Name of minor.	Age.	Native place.	Place of education.	Balance at beginning of the year.	Receipts.	Disbursements.	BALANCE AT THE END OF THE YEAR.		Value of moveable property in hand.	Area of land under management.
								Cash.	In Government securities.		

in my charge on June 30th and in instances I was guardian also. The marginal table gives the principal particulars in each case. The estates of

and have been surrendered during the year; the former on expiration of minority, and the latter on transfer of guardianship to

(Note.—The appointment of special Manager, Encumbered Estates Department, having been abolished, the Commissioner in Sind need not submit a separate annual report, but the Collectors should briefly state in their General Administration Reports the results of their management of the estates in their charge: G. R. No. 2178, dated 9th April 1888.)

Total number.	Of whom punished by fine.	Of whom punished by dismissal.	Of whom punished by suspension.

23. Village Officers.—The efficiency of the village Revenue officers is shown in the margin.

(b) Supervision.

24. The Huzur Accounts Department and Record Room were examined between the

REVENUE OFFICERS AND SERVANTS.] [PART VI.

and of October last. The English memorandum of errors, &c., was despatched to the Huzúr Deputy Collector on the idem, and was finally disposed of on .

25. The amount of general inspection of certain kinds performed by myself personally, and *with the aid of the Daftardár and Supernumerary Assistants in my camp*, is as under :—

COLLECTORATE, TOTAL OF.			OF WHICH WERE VISITED.			ACCOUNTS EXAMINED.			RECORDS EXAMINED.			RAYATS' RECEIPT- BOOKS EXA- MINED.		BOUNDARY MARKS EXAMINED.	
Mámaldáre' stations.	Mahálikaris' stations.	Villages.	Mámaldáre' stations.	Mahálikaris' stations.	Villages.	Mámaldáre' stations.	Mahálikaris' stations.	Villages.	Mámaldáre' stations.	Mahálikaris' stations.	Villages.	In how many villages.	Number of books.	In how many villages.	Number of marks.

A return of places at which I have resided during the year accompanies this report as Appendix C.

(1. *Note*.—The Collector of Ratnágiri and his Assistants should always report under the head of supervision the numbers of the abhavni patráks or annual crop appraisalment registers kept by the Khots, examined and tested by enquiring of the tenants : G. R. No. 4674, dated 2nd September 1879.)

(2. *Note*.—Examination of village accounts at the time of the jamábandi should not be shown by Collectors and Assistant Collectors in their Administration Reports : G. Rs. Nos. 5670, dated 24th October 1874, and 4549, dated 31st August 1880.)

(3. *Note*.—As there was a want of uniformity regarding the entry of statistics of boundary-mark examination in the Administration reports of Collectors—some Collectors showing their own work alone, some showing only the work of their office and some showing both—the Commissioners were directed by Government Resolution No. 9116, dated 20th December 1890, to issue orders on the subject in consultation. The following instructions (No. R-4666, dated 23rd October 1891) were issued by the Commissioner, C. D., to the Collectors in his Division with the concurrence of the Commissioners, N. D. and S. D. :—

“ In pursuance of the orders of Government conveyed in the last sentence of paragraph 12 of Government Resolution No. 9116, dated 20th December 1890, Revenue Department, I have the honour to issue the following instructions.

“ No change is desirable in the existing orders regarding the examination of boundary marks. Under these it is unnecessary for a Collector to examine boundary marks personally, but he may do it vicariously if he is in immediate charge of a táluka ; but, in order to secure that uniformity the want of which is alluded to in paragraph 12 of the Resolution of Government referred to above, only a lump figure representing the total number of boundary marks, examined by his office establishment and by himself if he has taken the trouble to examine any, should be entered in each Collector's Administration Report, and the system of showing his own work and that of his own office establishment separately should be discontinued : G. R. No. 3272, dated 7th April 1892.)

PART VI.] [REVENUE OFFICERS AND SERVANTS.

26. There are 15 Sub-Registry Offices in my charge the whole of which I duly examined, *excepting two to which my Registration Clerk was deputed.* The prescribed reports have been made to the Inspector-General of Registration.

Offices.	MAGISTERIAL.*			Offices.	MAGISTERIAL.		
	Revenue.	Records of trials.	Records of Miscellaneous papers.		Revenue.	Records of trials.	Miscellaneous papers.	Village-†
Huzar ...				Shahapur...			
Dahanu ...				Murbad ...			
Mahim ...				Kalyan ...			
Hamein ...				Nasrapur ...			
Bhivndi ...				Panvel ...			
Kalyan ...							

27. The destruction of useless records is *much in arrears*, as will be seen from the marginal table showing the latest year up to which they have been destroyed in each office.

* Vide G. R. No. 2473, dated 8th May 1879.
† Vide G. R. No. 6036, dated 2nd October 1873.

(c). Special Measures.

28. Settlements.—*The Revenue Survey Settlement was introduced into the taluka of during the year under report, and the Jamabandi of the taluka was also done by the department consequent on the settlement of the previous year. The re-settlement of the taluka has been taken in hand, as the present term will expire in 18*

(Note.—It is important that a Collector should watch the working of a revised as compared with that of the original settlement, if revision is going on, or has recently been introduced in his district, whether it throws land out of cultivation, if so what class of land, whether the new rates seem to be easily paid, whether there are complaints of unequal incidence, whether the rates keep any cultivable land of inferior quality out of cultivation, what effect the revision of water assessment has, and the like: G. R. No. 724, dated 31st January 1887.)

29. *The alienation settlements have been almost completed, but the re-issue of sanads containing the area and quit-rent according to the survey will probably be prolonged for two years to come.*

Nature of settlement.	WORK DONE IN 1872-73.		WORK DONE IN 1873-74.		ESTIMATED BALANCE OF WORK REMAINING.		
	Cases decided.	Sanads issued.	Cases decided.	Sanads issued.	Cases pending.	Sanads to be issued.	Sanads to be re-issued.
Under Bombay Act 11 of 1868.							
Hereditary Officers ...							
Village servants...							

(Note.—Columns 2 and 4 are intended to show only the work done during the years specified, and the last three columns the whole arrears outstanding: G. R. No. 3486, dated 8th July 1874.)

30. Waste Lands.—*There is only one one táluka*

EXTENT OF CULTIVABLE AREA, FOR		TAKEN UP IN		Waste remaining August 1st 1874.	PERCENTAGE OF CULTIVABLE LAND LYING WASTE IN	
1872-73.	1873-74.	1872-73.	1873-74.		1872-73.	1873-74.
..						

in which so much waste land exists that special measures have been sanctioned to promote its cultivation. Their effect has not as yet

been very great, and certain modifications of system have been suggested. Two additional leases have been granted for the reclamation of acres of salt land.

(Should there be mines or quarries worthy of special notice, a paragraph 30 A may be inserted here).

31. Mr. _____ has also supervised the special experiments detailed below:—

- (a) Carolina rice.
- (b) Baobab trees.
- (c) Introduction of the bamboo.

(State briefly the general result in each case.)

(If there be no Inspector, any experiments made by the Collector or private individuals may be mentioned, or the fact stated that there is nothing worthy of record.)

(1. Note.—The heading "Special Experiments" should be understood to refer, amongst others, to crop experiments: G. R. No. 3153, dated 30th April 1889).

(2. Note.—Agriculture, which is reported upon independently by the Director of Agriculture, and Horse-breeding, which is the subject of an independent report by the Superintendent, Civil Veterinary Department, should be noticed by the Collector in his Administration Report, so that, if he has anything to say on these subjects, Government may have the benefit of a non-departmental opinion on the working of the Department, and the Collector may have his interest aroused in matters which may materially concern his district. If he has nothing to say on these matters there is no need for him to write about them: G. R. No. 724, dated 31st January 1887.)

IV.—CIVIL.

32. The extent to which Government is involved

Pending on July 1st 1873.		Additional 1873-74.		DECISIONS.				Pending on June 30th 1874.	
Original.	Appeals.	Original.	Appeals.	For Government.		Against Government.		Original.	Appeals.
				Original.	Appeals.	Original.	Appeals.		

in litigation, and the results during the year of report are summarized marginally and given in detail in Appendix D. The most important decision was

vs. that of the High Court in by which the principle has been laid down in favour of Government that

PART VI.] [REVENUE OFFICERS AND SERVANTS.

33. Mámlatdárs' decisions under Bombay Act

Year.	Number of cases decided.	NUMBER EXAMINED.	
		On reference from Assistant.	Personally.

III of 1876 were supervised to the extent marginally noted. The number of cases which I found to have been disposed of unsatisfactorily was per cent. of the total. *The people continue to avail themselves very sparingly of*

this method of redress.

(1. *Note.*—The Collectors should always state distinctly what proportion the cases unsatisfactorily disposed of bore to the total number examined: G. Rs. Nos. 4432 and 4434, dated 23rd August 1879.)

(2. *Note.*—The Collectors should in their Annual Administration Reports in dealing with the work done by Mámlatdárs under Act III of 1876 give some account of the average duration of the enquiries. The information that Government require is as to the time that elapses from the reception of the plaint until final decision is given and not as to the actual number of days on which the case was heard: G. Rs. Nos. 1237 dated, 13th February 1893, and 8641, dated 25th November 1893.)

V.—MAGISTERIAL.

Year.	Offences.	NUMBER OF PERSONS DEALT WITH BY		Number of persons convicted.	Number of unjudged.
		Magistrates.	Sessions Court.		
18 ...					
18 ...					

34. The general state of crime and the action on it of the Magisterial authorities, is shown in the margin.

(1. *Note.*—A suggestion having been made by a Commissioner that the paragraph on crime as also that on Municipalities should be omitted, it was observed by Government that they did not require any detailed reference to offences or a description of the administration of all the municipal cities and towns, but that it appeared desirable that an opportunity should be given to Collectors of alluding, in connection with these as with other subjects of like importance, to any salient features in the history of the year in a report which is the only concise and compendious annual record of administration which Government receive from each district. If a District Magistrate confines his remarks to such salient features he can with advantage deal with the period to which most of the revenue sections of the report relate, but there appears to be no necessity for specially collecting statistics for that period. No action can be taken on such statistics. Statistics given in an Administration Report are generally of use only so far as they illustrate remarks which are the result of personal observation: G. R. No. 9317, dated 10th December 1893.)

(2. *Note.*—The Governor in Council is of opinion that more detailed information should be given in the administration reports of Collectors as to the quantity and character of the magisterial work done by officers of the Revenue establishment exercising magisterial powers. It seems that some Mámlatdárs and Aval Kárkúns have more magisterial work thrown on their hands than they can well cope with in addition to their revenue work, and that, subject to the proper convenience of the parties interested and of the witnesses, some Assistant and Deputy Collectors should try more cases than they do at present. The Commissioners should be reminded that it is their duty to supervise the distribution by the District Magistrate of magisterial work among the different Magistrates on his establishment, and both Commissioners and District Magistrates should be requested to review in greater detail the distribution and performance of magisterial work in each district. The required

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information should be for the year ending 30th June and should be furnished in Form E: G. Rs. Nos. 1425, dated 26th February 1892, 484, dated 18th January 1893, 4473, dated 21st June 1893, and 8175, dated 4th October 1894.)

35. The exercise of my own jurisdiction has

Year.	ORIGINAL.		APPELLATE.			SCRUTINY.	
	Number of cases tried.	Accused.	Cases.			Cases.	
		Convicted.	Acquitted.	Confirmed.	Modified.	Reversed.	Examined.	Further action taken.
1872 ...							
1873 ...							

been to the extent shown in the margin. In one case I have been obliged to obtain the sanction of Government to the reduction of a Magistrate (Rao Sáheb) from the 2nd to the 3rd class.

(Note.—The information in this paragraph should be made up for the year ending 30th June: G. R. No. 590, dated 23rd January 1894.)

36. The Village Police are under the authority

Year.	Police Patalships in the Col- lectorate.	POLICE OFFENCES PUNISHED BY				VACANCIES.	
		Fines, Imprison- ment, &c.*	Dismissed.	On death or re- signation.	By Rotation.	By Dismissal.	Vacant on June 30th.
1872-73 ...							
1873-74 ...							

of the District Magistrate alone, no powers having been conferred on the Superintendent of Police under Bombay Act VII, 1867, Section 44. The principal facts regarding the office of Police Pátel are

given in the margin. Thirty Pátels hold commissions under Section 15, clause 1, of Bombay Act VIII, 1867.

*(Note.—Pátels criminally prosecuted and sentenced either to pay a fine or to suffer imprisonment are not to be shown in this column: G. R. No. 3209, dated 24th June 1874.)

By District Magistrate.	By Huzár Deputy Collector.	By other First Class Magistrates.

37. The visitation of the District Jail, under Section 37 of Bombay Act IV, 1865, and the standing orders of Government has been duly performed.

(Note.—Officers who are negligent in the performance of the important duty of visiting the District Jail should be reported by name to Government in the Collector's Administration Report: G. R. No. 4432, dated 23rd August 1879.)

38. The working of the Cattle Trespass Act is shown in the accompanying table:—

Year.	Number of cattle pounds.	CATTLE.		Receipts.	Expenditure.	BALANCE TRANSFERRED	
		Impound- ed.	Sold.			To Local Funds.	To Municipal Funds.
1872-73 ...							
1873-74 ...							

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(Note.—The number of cattle impounded by Forest Officers should be shown separately: G. R. No. 5763 dated 17th July 1885.)

39. The Arms Act is in force in *all respects* in this district. The

Year.	LICENSES ISSUED.			PENALTIES.	
	Dealing in Arms.	Carrying Arms.	Travelling.	Cases.	Amount.
1873-73	...				
1873-74	...				

The last calendar year shows a *considerable increase* in licenses issued which appears attributable to the *reduced stringency* conse-

quent on Government Resolution, Judicial Department, No. 3706 of July 9th, 1873.

(Note.—The information concerning the Arms Act should be given for the calendar and not for the revenue year: G. R. No. 1867, dated 20th March 1888.)

VI.—PUBLIC WORKS.

40. (It appears to His Excellency the Governor in Council that "Public Works" are far too important a branch of administration to be withdrawn from the cognizance of the Collector of a District, and if he is directed to omit all mention of them from his administration report the subject is apt to be neglected, whereas the Collector ought to be recognized as having a very decided voice in the matter.

The Collectors should make general observations on the general condition and working of the Local Boards within their respective charges, the state of communications in their districts and the improvement of the water-supply, omitting all details as to "meetings," receipts and expenditure and abstract of works: G. Rs. Nos. 724, dated 31st January 1887, 6063, dated 26th August 1890, 3864, dated 4th May 1892, and 10103, dated 24th December 1892.)

41. *There are no works of public improvement in progress at the charge of Imperial or Provincial Funds. The Committee consider that a grant is urgently required for . . . The Collector also has long pointed out the want of a new Mám-latdar's kacheri at*

(Note (1).—Expenditure on account of petty construction and repairs should be shown under this paragraph: G. R. No. 3138, dated 28th July 1876.)

(Note (2).—As the Collector's annual report is supposed to be an epitomé of the administration of the whole district, the information regarding expenditure on police buildings should be included in it: G. R., F. D., No. 3933, dated 22nd September 1876.)

VII.—MUNICIPALITIES.

42. (The Collector should report his observations of the meetings held, the success or failure of the corporations, what members are active and who are inert in their work: G. R. No. 724, dated 31st January 1887). (*Vide* also note 1 below paragraph 34.)

VIII.—EDUCATION.

43. (In their Resolution No. 724, dated 31st January 1887 Government have remarked that as regards education, remarks similar to those made above regarding Municipalities apply.)

REVENUE OFFICERS AND SERVANTS.] [PART VI.

Year.	Schools.				Number of Scholarships.	Number of New School-houses erected.
	Secondary.		Primary.			
	Number.	Scholars.	Number.	Scholars.		
1872-73						
1873-74						

44. The principal statistics relating to education are given in the margin. I have visited schools in the course of the year.

(Note.—Secondary schools would include all schools above primary, while primary would include both the upper primary or superior village schools and the lower primary or inferior primary schools: G. R. No. 5433, dated 3rd July 1885.)

IX.—SPECIAL DUTIES.

45. I was appointed by Government Resolution No. of Member of a Committee to report on and was absent from my charge and at for the purpose from to

I have, &c.,
(Signed) A. B,
Collector of

(G. Rs. Nos. 2346, dated 11th May 1874, 724, dated 31st January 1887, 7358, dated 24th October 1887, and 775, dated 29th January 1891.)

Appendices to the Collector's Administration Report.

APPENDIX A (PARAGRAPH 2).

Statement showing the officers at the Collector's disposal, and the manner in which they were employed during the year ending on 30th June 18 .

Names of Officers.	Grade.	From what date to what date.	Nature of employment.

(This should be prepared from the Collector's records.)

APPENDIX B (PARAGRAPH 9).

Statement of Prices of Produce in the Collectorate.

*Period of year.	PER STANDARD MAUND.										PER CUBIC FOOT.			
	Wheat.	Barley.	Rice, best sort.	Rice, common.	Bajri.	Jowar.	Gram.	Salt.	Flour.	Oil.	Ghi.	Firewood.	Timber, Teak.	Timber, Jungle.

(This can be prepared from the record of prices current kept at the Huzur.)

* (Note.—The term "period of year" means the months in which the prices current are submitted, and all the 12 months are to be shown : G. R. No. 3209, dated 24th June 1874.)

PART VI.] [REVENUE OFFICERS AND SERVANTS.

APPENDIX C (PARAGRAPH 25).

Statement showing the places at which the Collector of resided during the year ending on 30th June 18 .

Name of place.	From what date to what date.	No. of days.	Remarks.

(This should be prepared from the Collector's own records. The monthly batta bills will be found useful.)

(Note.—In the tour return the talukas in which the villages camped at are situated should be entered: G. Ra. Nos. 118, dated 7th January 1888, and 8641, dated 25th November 1893.)

APPENDIX D (PARAGRAPH 32).

Statement of civil suits by, or against, Government or its Officers, during the year ending on 30th June 1874.

No.	ORIGINAL SUITS.							APPEALS.			Remarks as to application for review, if any, cause of extraordinary delay, &c.
	Names of Parties.		Subject of Suit.	Value of Suit.	Date of Suit.	Court adjudicating.	Decision with date or compromise.	Party appealing.	Court appealed to.	Decision.	
Plaintiff.	Defendant.										

(The Government Pleader at the Sadar Station, and the Collector's records, will supply all the information required for the preparation of this.)

APPENDIX E—(PARAGRAPH 34).

1	Name, Designation and Local Jurisdiction.
2	Class of powers with which invested.
3	Period during which powers were exercised in a particular district or taluka, &c.
4	Dismissed, compounded or withdrawn and acquitted under Criminal Procedure Code, Section 247.
5	Discharged and acquitted.
6	Convicted.
7	Committed to the Court of Sessions.
8	Total.
9	Summons cases.
10	Warrant cases.
11	Summary cases.
12	Total.
13	Number of appeals decided.
14	Confirmed.
15	Reversed.
16	Modified.
17	Total.
18	<p>REMARKS.</p> <p>N.P.—It should be stated in the case of Assistant and Deputy Collectors how many cases entered in column 12 were taken up in relief of the Taluka Magistrates.</p>

CASES DISPOSED OF.

OF THE CASES BROWN IN COLUMNS 9, 10 AND 11.

CASES APPEARED AGAINST.

PART VI.] [REVENUE OFFICERS AND SERVANTS.

APPENDIX F.

The Press.

1	2	3	4	
District.	Name of Press.	Name of Proprietor.	Publications thereat.	
			a Newspapers.	b Periodicals.

5. The Land Revenue Administration Report of the Collector of Bombay should deal closely with revenue *administration*. In such a report an account of the system of assessment and collection of revenue, the areas in respect of which assessment is levied, the tenures of land, the uses to which it is put, the prices realized at sales of land and the control exercised by the Collector and the Executive Engineer, respectively should, among other matters, find a place. A very lengthy report is not necessary, but at all events an attempt should be made to place on record annually such facts as are calculated to enable Government to form an opinion regarding the principal features in the administration of the Department which is impossible if merely a summary of revenue collections of little interest in themselves is submitted for review. (G. R. No. 1856, dated 11th March 1890.)

6. A complete account of the system of assessment and tenures of land is not needed each year. It will suffice to give in future reports such further information on these points as may be available. The report should be prepared on the assumption that the revenue of the year reported on is to be held to consist of the revenue recoverable in that year. (G. R. No. 4558, dated 30th June 1890.)

7. The Collector should in his future reports on the land revenue administration of the Collectorate of Bombay give information regarding the different items which are classed under the head Miscellaneous Land Revenue. (G. R. No. 4706, dated 10th July 1891.)

Note.—This Resolution approved of the form in which the report should be submitted by the Collector.

(iii) *Assistant and Deputy Collectors' Reports.*

1. All Assistant Collectors in charge of talukas are to submit to the Collector on the 5th of July in each year a general report, in the form given in Appendix I, for the twelve months which expired on the 30th of June previous. These reports are to be forwarded in original by the Collector to the Commissioner not later than July 20th, with such remarks as he may think proper.

In drawing up the reports the following principles are to be strictly carried out:—

(a) The whole report must be prepared by the Assistant himself, and not drafted for him by clerks or others.

(b) The report should be entirely prepared (as it can be) from materials in or passing through the Assistant's own office, and not by calling for statements from Mámlatdárs. Every Assistant is, at the time of doing jamábandi or examining records, &c., to keep in his own hand notes of the result and the statistics necessary for his report. All such notes are to be handed over on a transfer, and the fact that all materials necessary for the report up to date have been so transferred is to be mentioned in the usual report of giving over and receiving charge.

(c) It may in some cases happen that the statistics given will not tally exactly with those framed at the Huzúr at the end of the year, owing to the different date at which they have been obtained by the Assistant. Accuracy is to be obtained as far as possible, but is not essential in all cases, as the scope of these reports is to show how the Assistant deals with the work which passes before him, not to form materials from which any general and precise report is to be compiled.

(d) The portions of the accompanying form which are in ordinary type, as also the numbering of sections and paragraphs, and the marginal tables are intended to be invariable. The portions in italics are intended as examples of the sort of information required, and are to be modified according to the circumstances of each case.

(e) If under any head more latitude for any special facts, opinions or suggestions be required, the insertion of not more than one paragraph of moderate length, to be numbered A (as 11-A, 23-A, &c.) is permitted.

(f) As these reports are intended to stand by themselves as records of administration, nothing is to be stated in them in a form requiring a reply. Opinions and suggestions, or results, are to be simply stated, all correspondence for action on them being conducted independently.

(g) No personalities, recriminations, personal statements, or defences can be permitted.

(h) No opinions of the character or qualifications of Government officers, or private individuals in the Municipal or Local Fund Committees, &c., are to be offered on hearsay, or except on personal acquaintance with the individual and his work.

(i) Finally, as Government will be guided to a considerable extent by these reports in their estimate of the qualifications and capacity of the officers submitting them, the latter should spare no pains to make them neat in form, terse in style, and intelligently comprehensive and useful in matter.

(G. Rs. Nos. 5091, dated 12th October 1871, 3024, dated 15th June 1878, 5317, dated 13th September 1881, 724, dated 31st January 1887, and 2224, dated 26th March 1891.)

PART VI.] [REVENUE OFFICERS AND SERVANTS.

2. Collectors should record briefly their general opinion of the manner in which their Assistants have performed their duties when submitting the latter's reports to Government. (G. R. No. 4308, dated 30th August 1872.)

3. One of the principal objects of the Assistant and Deputy Collectors' administration reports is to ensure a more exact and thorough supervision being maintained by Assistants and Deputies over the administration of their charges; and to this end to oblige them to record from time to time the results of their observations and scrutinies, and not to defer till the end of the year obtaining the requisite information from their Mámlatdárs. Government are satisfied that this information can be readily obtained by these officers themselves, if only they and their subordinates will during the course of their tours take the trouble of recording the necessary facts.

Special care must be taken that the orders obliging Assistants on their transfer to certify that they have made over to their successors the requisite notes and materials for the preparation of these reports are not lost sight of.

(G. R. No. 3023, dated 15th June 1874.) ✓

4. A suggestion being made that June 15th should be substituted for July 1st in paragraph 9 of the form of Assistant Collectors' Report, and that for the purposes of paragraphs 11—13 the year ending 31st May should be made the year of report, Government observed that it did not appear that any specific orders were necessary on the point. In the Resolution which first directed the submission of the reports it was stated, with regard to the statistical information to be furnished in them, that "accuracy is to be obtained as far as possible, but is not essential in all cases, as the scope of these reports is to show how the Assistant deals with the work which passes before him, not to form materials from which any general and precise report is to be compiled." Accordingly it would be sufficient if the information was given up to as late a date as possible. (G. R. No. 5571, dated 26th September 1881.) ✓

5. Assistant Collectors should be trained to understand and take an interest in the departments which do not come directly under their control, but which enter into the duties of a Collector, so that when they have to take charge of a district they may be familiar with all branches. Government therefore direct the introduction of a system of brief departmental reports on Opium, A'bkári, Stamps and Registration. The reports should be addressed to the Collector; they should be short and simple, giving brief statistics with remarks explanatory of the features shown by the figures, notice of any important departmental orders and how they worked, and any remarks that may occur to the writer on the management of the departments in the tálukas under his charge. Should the Collector consider these reports to have special value in any

REVENUE OFFICERS AND SERVANTS.] [PART VI.]

case, he should forward them to the head of the department.

Each Assistant Collector should ascertain from the táluka offices in his charge the nature of the revenue under the four heads (Opium, A'bkári, Stamps and Registration), with the various sub-heads, which pass on to the táluka books, and should then ask the Mámlatdárs to furnish him with the amounts credited up to June 30th. Figures which can only be obtained from the Huzúr Account Office should not be required from Assistant Collectors. Opium and A'bkári may be included in one report and Stamps and Registration in another.

(G. Rs. Nos. 724, dated 31st January 1887, and 2970, dated 12th May 1887.)

6. The duty of reviewing the annual administration

*“ One of the chief objects of a standard form, especially for long reports which have to be submitted in manuscript, is that reviewing authorities may know exactly where to find particular matter—especially for objects of comparison or combination. And it is most confusing and troublesome, when for instance ‘Education’ is treated as paragraph 9 of one report and paragraph 18 of another, and in a third is given among ‘General Remarks’ quite at the end; or when one set of remarks on ‘Tagai’ or on ‘General Condition and Prospects’ is given at the prescribed place, and another set of remarks on the same subject in some other position further on. There is also too much of a tendency on the part of some Assistants,—usually the more junior ones,—to ignore the specially stated facts that the reports are to stand simply as records of administration, showing what the officers submitting them have done, and how they have done it; to introduce into them opinions and suggestions with the intention that they shall be accepted and acted on from the reports themselves, instead of from separate proceedings; and to write themselves into notoriety by introducing inordinately long ‘Special Paragraphs.’ ”

tion reports of Collectors and Assistant and Deputy Collectors has been practically transferred to the Commissioners, and they should bring to the notice of Government any points in respect of which they consider revision of the standard drafts of the reports desirable. The remarks of the Commissioner, S. D., given in the margin,* should be specially noted by all Assistant and Deputy Collectors. Frequently the reports are unnecessarily long and contain suggestions which should form the subjects of separate references. It

should be remembered that these reports are to stand merely as records of administration and that nothing should be stated in them in a form requiring a reply. Assistants and Deputy Collectors should bear in mind that they should only record the results of their own inspection and observation, and that it is contrary to orders to append to their reports reports of Mámlatdárs on the condition of the people.

Assistants' reports should, of course, be returned by Collectors when necessary for the correction of mistakes, but the fact should not be lost sight of that one of the chief objects of these reports is to enable the Commissioners and Government to judge how each officer performs his duties. The

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Collector has already ample opportunity of gauging the merits of his Assistants, and it is not necessary for him to review their work in detail; nor should he discuss their reports in his own, which is intended to stand as a record of his own work and his own observations. The present orders should be adhered to, and Collectors should add to each Assistant's report such separate remarks as may be required in each case; there does not seem to be any reason for printing or circulating these.

(G. R. No. 1237, dated 13th February 1893.) ✓

7. It is desirable that a map, with his tour marked thereon, should be submitted by a sub-divisional officer with his administration report. No new maps need be prepared for this purpose. The maps which now accompany Collectors' administration reports are in the case of most districts sufficiently suitable. In any case in which they are considered to be too small to properly illustrate an Assistant Collector's tour, rough sketch maps can be substituted; all that is wanted is that Government may have a fair general idea of an Assistant or Deputy Collector's tour. The Commissioners have a ready means of checking these tours in the monthly diaries submitted to them. (G. Rs. Nos. 8435, dated 5th November 1889, 1032, dated 8th February 1890, and 8641, dated 25th November 1893.)

8. The practice of appending large taluka maps to the annual administration reports should be discontinued, and the tour of each officer should be shown and marked on a district or sub-divisional map of convenient size. (G. R. No. 9246, dated 18th December 1893.)

APPENDIX I.

(FORM OF ASSISTANT AND DEPUTY COLLECTORS' REPORTS.)

No. OF 18 .

From A. B.,

First Assistant Collector and
Magistrate, F. P.;

To C. D.,

Collector and Magistrate of E.

July 5th, 18 .

Sir,—I have the honour to submit the annual

Talukas.	Area in square miles.	* Population.
A		*(Imperial census figures to be given: G. Rs. Nos. 2505, dated 2 nd May, and 3028, dated 15th June 1874).
B		
C		
Total ...		

report on the administration of my charge, which is composed of the talukas specified marginally, and has been under me since March 11th 18 (or since November 1st 18 , previous to which date they

were under Mr.——, who has supplied to me the necessary information relating to his own time.

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2. A return of places at which I have resided during the year, and the number of days spent at each, is forwarded herewith (Appendix No. 1).

II.—REVENUE. (a) JAMÁBANDI.

3. The jamábandi settlement was effected during the periods stated in the margin; that of Táluka C was delayed beyond the prescribed period because I was called away to—

Tálukas.	Commenced.	Completed.
A ...	December 15th...	January 10th.
B ...	January 2nd ...	February 10th.
C ...	February 20th ...	March 20.

for a few days to meet the Revenue Commissioner (or as the case may be).

(Note.—The information in paragraph 3 should refer to the whole charge, i.e. all the tálukas of which charge is held by the Assistant or Deputy Collector. If any táluka has been settled by the Collector, the fact should be noted.)

4. The results of the settlement of the tálukas mentioned in the last paragraph were noted down in my office at the time, and are as follows. Items arising subsequent to the preparation of the village tharávbands have not been included :—

Years.	Land Revenue.			Local Funds.		Inter-est.	Total Revenue for collec-tion.
	Remis-sions.	Allena-tions.	Revenue for collec-tion.	Remis-sions.	Revenue for collec-tion.		
18 18							
18 18- .. .							
Increase							
Decrease							

The chief causes of decrease and increase are as follows: (give brief explanations).

5. Takávi advances have been made to a few rayats: (give brief remarks on number of applications received and granted.)

6. The progress of the realization up to June 30th of the land revenue of the tálukas in my charge, not including revenue assigned to Local Funds or credited to the Public Works Department, is shown in the following table :—

Demand.	Collections upto 31st March.	Balance on 1st April.	Collections from 1st April to 30th June.	Balance.

As far as it is now possible to judge, nearly all the balance on July 31st will eventually be realized.

REVENUE OFFICERS AND SERVANTS.] [PART VI.

The performance of their duties by the village accountants is on the whole good, as shown by the general application of the prescribed tests (Manual, pages ...), but out of a total number of 150, it has been necessary to *reprimand twenty, to fine ten, and to dismiss two, one of whom was prosecuted criminally and convicted.* In examining receipt-books the procedure prescribed at page 84 of the Manual of Revenue Accounts was observed.

(1. Note.—*Vide* note 1 below paragraph 25 of the form of Collectors' Administration Report.)

(2. Note.—In column 3 of the statement entered in this paragraph all the villages which the officers visited for the performance of official duties should be entered, and not only villages at which they encamped: G. R. No. 6619, dated 25th September 1882.)

(3. Note.—All punishments inflicted on village accountants should be shown in this paragraph: G. R. No. 8782, dated 15th December 1882.)

III.—CIVIL.

11. The number of cases decided by Mámlatdárs

Tálokas.	Number of cases decided.	Number examined.	Number referred to Collector.
A			
B			
C			
Total ...			

under Act III of 1876 (Bombay) and the results of my supervision are given in the margin. The Collector has administered reprimands in ... of the cases referred to him for injustice or carelessness. On the whole

the work is fairly done, *except by Ráo Sáheb Mámlatdár of A.*

(1. Note.—Only those cases in which mistakes are noticed should be entered as referred to the Collector: G. L. No. 9013, dated 6th November 1885, and 534, dated 21st January 1886)

(2. Note.—Assistant Collectors should include in their reports with brief remarks, a statement showing the numbers of Sub-Registry Offices and, in the districts where Act XVII of 1879 as amended by Acts XXIII of 1881, XXII of 1882 and XXIII of 1886, applies, of Village Registry Offices examined by them: G. R. No. 8126, dated 17th November 1890.)

IV.—MAGISTERIAL.

12. The extent

Tálokas.	Number of cases tried.	Number of accused.				On appeal or revision, number of sentences.		
		Number of accused committed to the Sessions.	Convicted.	Acquitted.	*Discharged.	Confirmed.	Modified.	Reversed.
A								
B								
Total ...								

to which my own original jurisdiction has been exercised, and the results of the control exercised over it by superior authority, are given in the margin.

* Note.—Prisoners not committed for trial will come under the head of discharged: G. R. No. 3896, dated 26th July 1872.

PART VI.] [REVENUE OFFICERS AND SERVANTS.

13. I was invested on *January 10th*, 18 , with

Talukas,	Names of Sub Magistrates.	Powers exercised.	Number of		On appeal or revision, number of individual sentences.		
			Cases.	Persons convicted.	Confirmed.	Modified.	Reversed.
A ...	M. N....	1st Class.					
	N. O....	2nd "					
B ...	P. Q....	1st "					
Total ...	...	...			

powers to hear appeals from the decisions of Subordinate Magistrates. The marginal table gives the number of cases disposed of by each Sub-Magistrate in my charge with the results of my exercise of the above power, and also of the references for revision which I have made to

the District Magistrate on scrutiny of the daily abstracts of cases and a percentage of the cases themselves as required by Government Resolution, Judicial Department, No. 2942 of October 10th, 1867.

(If the Assistant has no powers of appeal, the last three columns will contain the results of revision only, and the commencement of the paragraph should be modified so as to state with whom the appellate powers rest.)

1. *Note.*—It is not necessary for Assistant Collectors to give details of the work done by Subordinate Magistrates. They should merely show the nature of the work, original, appellate or revisional, done by themselves, for the year ending June 30th: G. R. No. 29, dated 5th January 1892.)

(2. *Note.*—Assistant Collectors should include in their reports, with brief remarks, statements showing—

- 1, amount of original magisterial work performed by them;
- 2, the same on appeal or review from or of the work of Subordinate Magistrates: G. R. No. 8126, dated 17th November 1890.)

V.—PUBLIC WORKS.

14. Local Funds.—State the number of meetings attended of each Taluka Board and add brief remarks on the working of the Boards.

(*Note.*—Statistical details concerning Local Funds affairs are not to be embodied in the Assistant Collectors' Administration Reports. Only critical remarks on the working of these Bodies are required: (G. R. No. 9246, dated 18th December 1893.)

VI.—EDUCATION.

15. Education.—State the number of schools in each taluka and the number visited, and add such remarks as may seem necessary.

VII.—MUNICIPALITIES.

16. Give a brief account of the share taken by the Assistant or Deputy Collector in Municipal administration.

(*Note.*—Assistant Collectors should include in their Administration Reports, with brief remarks, statements showing the share they have personally taken in Municipal Administration: G. R. No. 8126, dated 17th November 1890.)

REVENUE OFFICERS AND SERVANTS.] [PART VI.

VIII.—GENERAL REMARKS.

17. General remarks:—

APPENDIX 1 (PARAGRAPH 2).

*Statement showing the number of places at which the ———
Assistant Collector resided during 18 .*

Name of place.	From what date to what date.	No. of days.	Remarks.
..			
1st Head Quarters.			———was absent from the —— to the —— and ——acted for—— during that period.
2nd			

Note.—The camps should be shown consecutively as the office moved, and Mámíatdárs' and Maháلكaris' stations marked with asterisks.

(2. *Note.*—In the tour return the tálukas in which the villages camped at are situated, should be entered: G. R. No. 118, dated 17th January 1888.)

(1. *Note.*—The tours should be reported in the chronological order of the officer's movements and not according to the length of time spent at the several places at different visits: G. R. No. 4322, dated 30th August 1872.)

REVENUE OFFICERS AND SERVANTS.] [PART VII.]

PART VII.—MISCELLANEOUS.

1. Assistant Collectors are not to try any magisterial cases in their own houses. This must be considered a standing rule in the whole Presidency. (G. R. No. 1221, dated 3rd March 1873.)

2. It is clearly to be understood that no Magistrate is to try cases in his own house. (G. R. No. 2893, dated 21st May 1873.)

3. The officer in whose charge the office library is personally responsible for the safe keeping of the books composing it. (G. R. No. 5855, dated 11th November 1880.)

4. Medicines required for dispensaries should be received very soon after they are indented for, and Collectors should at once report to Government if there is delay in complying with their indents. (G. R. No. 6827, dated 2nd October 1882.)

5. The receipts and payments of the Collector of Bombay, who is a Land Revenue Officer and has a treasury, should be accounted for in the manner laid down in Chapter 18 of the Civil Account Code, 6th edition (see also Manual of Land Revenue Accounts). (G. R. No. 3660, dated 27th May 1890.)

6. There can be no question of the expediency, so far as efficiency of administration is concerned, of the assembling at the head-quarters of the district of all district officers during the season at which they are not ordinarily required to tour. This principle has always been recognised and acted on, the only exceptions being in cases where owing to the large size of certain districts, and for the convenience of the public, certain Assistants have been required to reside during the rains at outlying places within the districts to which they were attached. To say nothing of the inconvenience that would be caused to private persons having business to transact with district officers if they reside outside their district, it is obviously to the interest of discipline, instruction and despatch of business that the Collector's Assistants in all branches of the administration should be gathered round him in the rains. The claims of society also must be considered, especially in small stations and among officers who spend the greater part of each year on tour. (G. R. No. 3772, dated 3rd June 1891.)

7. Cases sometimes occur in which British officers, notwithstanding the stringent orders of Government to the contrary, have been tempted to take at times the law into their own hands, and to maltreat natives sometimes, where there may be reasonable grounds of complaint; at other times it has been for trifling causes; occasionally for no reason at all. The consequences of such illegal and violent acts are not only that injustice and hardship are inflicted on individuals, but that the character of the Government itself suffers from the tyrannical and oppressive behaviour of its own officers. Conduct of a kind so objectionable will

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not fail to subject those who deliberately violate the orders of Government to adequate penalties. But, though provocation can in nowise excuse the neglect or contempt of the reiterated orders of Government on this important subject, yet the Governor General in Council is desirous to prevent, as far as possible, the occurrence of any just cause of irritation to British officers marching detachments through British territories or those of Native States. To insure this object there should always be some one present to whom the Commanding Officer can apply for redress; to whom he can look for prompt attention when robberies have occurred or injuries have been inflicted, and from whom he may expect that every effort will be timely made to recover stolen property; to capture, and without delay to bring to justice, offenders, and to bring to notice any neglect or misconduct on the part of subordinate local officers. With this view, whenever troops are to march in British territories they should be accompanied by a Police officer deputed by the Magistrate of the district. The regular relief of the Police officers, as troops in march cross the boundaries of districts, is a point of detail which should in future be as carefully provided for as the preparation of supplies in the several districts. In Native States the Political officers of the British Government must understand it to be one of their duties to provide that, whenever British troops are to traverse the territories of Native Princes, their Darbárs are to depute intelligent and experienced officials of their own to accompany the British detachments, and to remain in attendance until the troops cross the boundary and enter other territory. This is frequently practised when any considerable body of troops is to traverse a Native State, but it is not sufficient thus to restrict the system to large bodies of troops, for the occurrence of robberies and of causes of misunderstanding are more likely to occur with small than with larger masses of troops, who ordinarily have with them an experienced staff, and are usually accompanied by Darbár vakils of rank and authority. The system must be worked out as carefully with small as with large bodies, and with especial care whenever the small detachment is composed of European troops. When such a system shall be adequately established, the occasions should be rare when misunderstandings could arise, and it should prevent the occurrences which often are a source of much irritation to Commanding Officers. Native States would be relieved from many difficult references and claims, whilst Commanding Officers having at hand a responsible person to whom at once to apply would be better able to pay attention to the precise instructions laid down for their guidance in paragraph 2, Section 47, of the Military Regulations of the Army, according to which all officers marching are "enjoined to bear in mind the serious responsibility that will attach to them for any abuse of authority, or exertion of illegal power; they will, therefore, invariably report

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to the Civil authorities any instance of neglect or inattention on the part of the Native Police or other subordinates of the Civil power, but by no means interfere with them in the exercise of their duty, or use any authority whatever over them; and in the event of any detriment or delay arising to the public service, or of any well-founded cause of complaint existing, they are to represent the same to the Commander-in-Chief through the regular channel. (G. I., For. D., No. 153, dated 16th May 1864; *vide* G. R. No. 457, dated 3rd February 1865.)

8. The selection of grounds outside military limits for encamping troops in case of any epidemic disease breaking out should be made by the Military authorities in consultation with the Collectors. As a general rule the land so selected will be dry murum soil unfit for cultivation. Where cultivable land is unavoidably chosen, the preferable course will be for the Collector to enter into an agreement with the proprietor, by virtue of which the land can at once be taken temporary possession of on payment by the Collector of whatever sum he may consider just on account of damage to crops and rent of land (G. R. No. 2749, dated 28th June 1865.)

9. In every case in which there exists a reasonable claim for compensation to owners of fields for the destruction of crops caused by the encampment on their grounds of troops marching through a district, the Collector should cause the Commanding Officer to be informed immediately of the extent of damage committed. (G. C. No. 2235, dated 12th May 1871.)

10. Government cannot recognize that when a regiment or a body of troops is on the line of march and accompanied by a Commissariat contractor or his agents, the Taluka authorities are in duty bound in all cases to lay in a supply of provisions for the benefit of such contractor. Were such an obligation on the part of the Civil authorities allowed, the presence of a contractor with the troops would be useless, as the district officers could generally provide all necessary supplies if sufficient intimation were given beforehand.

It is the duty of the contractor for supplies on the march, either by himself or by his agents, to have the supplies for which he contracts ready at the several halting places. This he should do by timely arrangements, preceding the troops, and purchasing the supplies, and arranging for their conveyance to the ground; the only assistance he should receive from the Civil authorities being directions to the district native officials to afford him every facility for the collection of the supplies, a rough estimate of the quantity of which should be furnished to them some considerable time beforehand.

The native officials on the spot and over them again the Collectors would, of course, take proper

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notice of any case in which the villagers obstructed the march of troops by declining to sell to the contractors articles required for the troops.

The foregoing is the principle which should govern the relations between the contractors and the native officials of the districts or villages through which the troops pass while on the march, and His Excellency in Council is of opinion that to allow native contractors the power to obtain supplies by requisitions on taluka officials, would be to swell the contractors' profits at the expense of the Government Exchequer, and of the time and labour of district officers without any corresponding benefit. It would, moreover, open the door to all manner of abuse and oppression.

(G. R., M. D., No. 3703, dated 5th October 1874; *vide* G. M., No. 5495, dated 16th *idem*.)

11. District officers should enjoin such Assistant Collectors and Mámlatdárs as are from time to time deputed to accompany troops on the line of march to be most particular in seeing that all claims for cartage, compensation, &c., are promptly enquired into and settled. (G. R. No. 4052, dated 16th July 1873.)

12. The investigation as to the amount of damage done to crops by troops and the amount of compensation to be awarded should be completed as promptly as possible. (G. R. No. 3026, dated 22nd May 1876.)

13. With a view to enable Civil officers who may be engaged in purchasing animals and stores for the Military Department to render their accounts so as to admit of their being accepted by the Military Accounts Department without further enquiry, the following procedure should be adhered to:—

Every payment made by a Civil officer on account of animals or stores purchased for the Military Department should be supported by—

- (1) the payee's receipt, and
- (2) the receipt of the Commissariat or Transport officer, to whom the animals or stores are handed over, in which receipt should be specified, in the case of animals, the depôt roll on which they will be accounted for, and in the case of stores, the Commissariat returns in which they will be brought to account;
- (3) When there is no representative of the Military Department to whom the animals or stores can be handed over, the Civil officer should furnish proof that he has made them over to the Railway authorities at the point of transmission for despatch to their destination, the proof being a certified copy of the acknowledgment of their receipt by the Station Master or other responsible officer of the railway.

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(G. R., M. D., No. 2620, dated 14th July 1887; *vide* G. R. No. 5040, dated 1st August 1887.)

14. Commanding Officers should specify some time beforehand the supplies they want for troops on the march, so that the Civil authorities can inform them what supplies will be delivered and at what rates. The district officers should furnish all information required by Commanding Officers of regiments that have to march through their districts regarding the supplies of provisions and forage procurable in their respective charges, and to comply with any requisition made by those officers on the distinct understanding that they will take and pay for the whole of the supplies demanded by them. (G. R. No. 8654, dated 8th December 1886.)

15. All communications on the subject of supplies required for troops on the line of march should be invariably addressed to the Collector of the district and not to subordinate officers. (G. R. No. 3812, dated 4th June 1891.)

16. As in the case of the moves of troops, due notice of the march of military followers and transport animals through a district should be given by the Military authorities to the Collector of the district, whether supplies are required or not. (G. R., M. D., No. 997, dated 23rd May 1893; *vide* G. R. No. 4234, dated 13th June 1893.)

17. The Government of India have sanctioned for adoption the following form of requisition for supplies of troops on the line of march :—

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COMST. FORM 15-A,

*Supplied gratis.**(This form is applicable to Punjab, Bengal and Bombay Commands.)*

Referred to in Army Regulations, India, Volume X, Part II.)

Requisition on the _____ for supplies required at _____ on the
 189 , for the fighting-men, public followers, public and private
 cattle of the _____ Dated at _____ 189 .

Articles.	Quantity required.	Articles.	QUANTITY REQUIRED.	
			Public.	Private.
<i>For Officers and others.</i>		<i>For public and private cattle.</i>		
Sheep	Atta for elephants ... ..	...	...
Fowls	Gram, 1st sort ... ..	...	...
Kids	" 2nd " ... ..	...	...
Milk	Barley ... ..	...	...
Eggs	Bajra or other inferior grain (to be speci- fied). ... ..	...	...
<i>For British Troops.</i>		Oats ... ..	...	...
Flour, wheat, 1st sort	Indian corn ... ..	...	...
Rice (descriptions to be specified)	Dhan ... ..	...	...
Salt (ditto)	Coolthi )	...	...
Onions	Mutt } (In Bombay Command only) ... ..	...	...
Potatoes	Gowar } ... ..	...	...
Vegetables, fresh	Jowari } ... ..	...	...
Firewood...	Mote ... ..	...	...
Charcoal	Fodder, green ... ..	...	...
Straw or grass for men's bedding	" dry ... ..	...	...
Oil (descriptions to be specified)	Sugarcane ... ..	...	...
Cotton for wicks	Kirby, dry ... ..	...	...
Tinning cooking utensils	" green ... ..	...	...
Hemp	Grass, green ... ..	...	...
Baskets	" dry, for rations ... ..	...	...
Ghurrahs, earthen	" " horses' bedding ... ..	...	...
Tent pegs	Bhoosa, white ... ..	...	...
		" missa ... ..	...	...
		Bran ... ..	...	...
		Salt (descriptions to be specified) ... ..	...	...
		Oil (ditto ) ... ..	...	...
Atta			
Rice			
Dal (descriptions to be specified)			
Ghi			
Salt (descriptions to be specified)			
Turmeric...			
Firewood...			
Straw			
Ghurrahs, earthen			
Tent pegs			

I do hereby certify that the articles specified in this requisition are indispensably necessary for the use of the _____ to the best of my judgment and belief, and after the most careful examination.

Examined.

Quarter Master.

Commanding

Commissariat Officer.

NOTES.

- I.—This requisition should reach the District Civil Officer at least a fortnight before the date on which the supplies are required.
- II.—This requisition is to be framed by the Commissariat Department and Commanding Officer to the extent each will be responsible for the supplies to be paid for by the State and by troops.
- III.—Only the articles shown on reverse can be requisitioned. Further articles, or an excess over the requisitioned amount of authorised articles, cannot be demanded, and the Commanding Officer and Commissariat Agent must make the best arrangements practicable to obtain them.
- V.—Requisitions for supplies in excess of actual requirements should on no account be made. If from any cause the quantity provided on indent is subsequently found to much exceed requirements, the official on whose requisition the excess supply was furnished should, in concert with the Civil Officer, make such arrangement for its disposal as may appear best for all concerned.
- V.—For transport mules and ponies grain of the cheapest kind locally obtainable to be requisitioned for.

[REVENUE OFFICERS AND SERVANTS. [PART VII.

- 18.** The following is a list of encamping grounds for troops on the main lines of communications in the Bombay Presidency. The attention of Collectors is drawn to paragraph 15, Section 1,* of the Transport Regulations, Part II, Inland, and they should take steps to ensure that the encamping grounds are kept in good order. It is not intended, however, that there should be any change in the existing procedure and that the encamping grounds hitherto cleaned by the Public Works Department should be cleaned by the Civil Department. The Collector will requisition the Executive Engineer, when clearance other than that which can be effected by the ordinary village establishment is necessary, and in that case, the outlay will be met, as heretofore, from the Military Repair assignment.

* Extract paragraph 15, Section 1, of the Transport Regulations, Part II, Inland.

15. The established encamping grounds when not occupied are kept clean and free from jungle growth, and generally in order by the local subordinate Civil officer, under the orders of the Civil officer of the district. The latter should be addressed without delay when there is a subject of complaint.

List of Encamping Grounds.

Routes.	Encamping Grounds.	
I.—Bombay to Poona:	Bombay. Kurla. Thána. Dhysur. Panvel. Woundal.	Khandála. Kárlí. Wurgaum. Nigri. Poona.
II.—Bombay to Násik.	Bombay. Kúrla. Thána. Bhiwndi. Dohála. Shápur.	Kurdi. Kására. Igátpuri (top of Thull Ghát). Wari Warra. Devláli (Násik)
III.—Bombay to Baroda and Ahmedabad.	Bombay. Kúrla. Thána. Bhiwndi. Majura. Buttána. Kámroli. Mahágaum. Sawteh. Nagunkus. Sujjun. Karmála. Bugwára. Paldi. Palan. Undáss. Gundeve. Kaliawádi.	Lachpur. Surat. Sewaun. Kim Choki or Kutodra. Umurwála. Broach. Tunkeira. Miágam. Itola. <i>Baroda.</i> Wasud. Anund Mogri. Nadiád. Kaira. Láli. Butwa. <i>Ahmedabad.</i>
IV.—Poona to Ahmednagar and Aurangabad.	Poona. Loni. Kondápur. Sirúr. Supa. Tas (or Chas).	Ahmednagar. Imámpur. Wuddála. Kygaon. Dyegaon. Aurangabad.

PART VII.] REVENUE OFFICERS AND SERVANTS.]

Routes.	Encamping Grounds.	
V.—Poona to Belgaum and Dhárwár.	Poona. Khair. Kikwi. Párgaon. Yella. Bhuinj. Sátára. Uttit. Umrúz. Karrar. Kassigaon. Kamairi.	Kinni. Kolhápur. Kágul. Nipáni. Sunkeshwar. Hutturgi. Butramutti. <i>Belgaum.</i> Hire Bágévádi. Kittur. Teggera. <i>Dhárwár.</i>
VI.—Poona to Sholápur.	Loni. Uruli. Yewut. Pátus. Rawungaum. Bhingawa or Big-wahun. Loni.	Indápur. Temburni. Arun. Hewrah. Mohol. Sawuleshwar. Sholápur.
IX.—Burhanpur to Mhow.	Burhanpur. Asingarh. Boregaon. Mokulgaon. Desgaon. Dorwa.	Sunnawud. Burwai. Bulwára. Smirole. Mhow.
X.—Ahmedabad to Rájkot.	Ahmedabad. Sirkeij. Sánand. Sachana. Viramgám. Chablie. Luktur.	Wadhwár. Muli. Doliya. Chotila. Bamunbore. Kuwarwa. Rájkot.
XI.—Rájkot to Porbandar.	Rájkot. Rubdah. Gondal. Virpur. Jetpur. Dhoráji.	Upleta. Wadásuda. Kutyána. Kundorda. Ranawow. Porbandar.
XII.—Bhúj to Mándvi.	Bhúj. Maigpur.	Burra Asumbia. Mándvi.
XIII.—Ahmedabad to Ajmere.	Ahmedabad. Aaulaij. Panshur. Langraij. Mysána. Unja. Sidhpur. Meyta. Gud. Deesa. Dunpura. Kucháwara. Muddar. Reodur. Sumvára. Sirohi.	Palri. Erinpura. Sanderáo. Dhola. Gundoji. Páli. Jadan. Sojat. Chandáwal. Jhuta. Bar. Sendra. Nyanagar. Mangliáwas. Saradua. Ajmere.

REVENUE OFFICERS AND SERVANTS.] [PART VII.

(G. R. No. 8037, dated 11th October 1884; G. Rs., P. W. D., Nos. 180 M. W.—1542, dated 22nd October 1884, 1263A, dated 24th November 1884; *vide* G. M. D., Nos. 8643, dated 3rd November 1884, and 9738, dated 9th December 1884; G. R., M. D., No. 1505, dated 2nd April 1886; *vide* G. M., 2995, dated 20th idem, and G. Rs., P. W. D., Nos. 20 M. W.—253, dated 3rd February 1888, and 46 M. W.—517, dated 14th March 1888.)

19. The rules* noted in the margin detail the procedure under which carriage is to be obtained by regimental authorities from the Commissariat and permit, under the conditions therein laid down (paragraph 96), of the Commissariat applying to the Civil authorities for assistance.

* Army Regulations, India, Vol. X, Passages, Part II, Inland, Section I, III Carriage, paragraphs 87 to 151, and Appendix V.

The position of the Commissariat Department is that on occasions of this sort it utilizes all Government carriage that may be available, procures contracts for carts, &c., whenever practicable, and does its best to obtain hired carriage when required, without the intervention of the Civil authorities at the sanctioned rates of hire. Beyond this, the powers of the Department do not extend, and hence it is absolutely necessary that the Department should be able to appeal to the Civil authorities when occasion demands it. The Commissariat Department is, however, bound to make its own arrangements for carriage when this is possible, the aid of the Civil authorities being called in only when difficulty is experienced in its provision.

Provision has been made in the Army Regulations noted† for the care of troops leaving one district for another, but compliance with requisitions for carts from the Civil authorities to be sent all the way beyond the limits of the Province can hardly be expected, and arrangements should be made by the Civil authorities to pass on the requisition beyond the province to those in the adjoining district.

Early notice should be given in regard to the march of troops, as when this is not done the difficulties of the Commissariat Department are greatly increased. Every endeavour should be made to fix the date of movements as early as practicable.

In order that effect may be given to the directions contained in paragraph 96, Vol. X, Part II, of the Army Regulations it is necessary that the prevailing rules of hire for different kinds of carriage in the several districts should be periodically ascertained and notified.

(G. I., M. D., No. 3246, dated 3rd August 1889, and 4093-D, dated 24th September 1889; *vide* G. Rs., M. D., Nos. 2653, dated 22nd August 1889, and 3081, dated 4th October 1889, and G. M. No. 8221, dated 29th October 1889.)

PART VII.] [REVENUE OFFICERS AND SERVANTS.

20. Every District (Civil) officer should be in possession of the latest rules in regard to the supply of carriage by the Civil authorities to the troops on the march. (G. I., M. D., No. 4181-D, dated 2nd October 1889; *vide* G. B. No. 8421, dated 5th November 1889)

21. When extensive transport is needed, Regulation XXII of 1827 or some similar law will always have to be used. Except on emergency there is no legal authority for interfering with the agricultural and rural owners of carts and animals, nor is it at all desirable so to interfere, or even possible. Returns will show approximately the means of transport existing in a village, taluka or district, but it depends on the season of the year how far these means are all available on any spot at any moment, and it would be useless to require native district officers to produce the full paper quota, if the actual substance were not in fact there to produce. Government could not interfere with the uses to which owners put their cattle and carts in ordinary times, and without such an extreme measure it is not possible to state certainly what will be available whenever it is required. (G. R. No. 10219, dated 19th December 1885.)

22. The rolls referred to in paragraph* 11 of the Appendix to the India Army Circular No. 170 should be retained on the records of the Civil officers of the districts in which the men live, who will furnish any information required regarding them, and render such assistance as they may be able to afford in the event of the men being called out for service. (G. Rs. Nos. 2428; dated 22nd April 1887, 6428, dated 23rd September 1887, and 3267, dated 21st May 1888.

* "All records and documents relating to reserve men will be kept in the battalion to which they belong; an office allowance of Rs. 30 per mensem will be granted for this purpose. Rolls of reserve men are to be kept in the form on the first page of the sheet roll (Bengal Form A—R 12), and copies of these rolls must be furnished to the Civil officers of the districts in which the men live." Para. 11 of Appendix to India Army Circular, 170.

I.—REPORTS AND RETURNS.

1. The annual Administration Report of the Salt and Continental Customs Department of the Bombay Presidency should be submitted to Government by the end of August, so that both report and the review thereof may reach the Government of India before 1st October. (G. Rs. Nos. 5100, dated 2nd August 1882, and 169, dated 9th January 1885.)

2. The Commissioner in Sind should forward the annual Administration Report of the Salt Department in Sind in print by the 1st September of each year at the latest to enable Government to transmit it to the Government of India within six months of the close of the year to which it relates. Instructions regarding the number of copies of the report required by Government should be obtained annually from the Secretariat by the Superintendent of the Commissioner's Printing Press. (G. R. No. 178, dated 12th January 1886.)

3. It would be advantageous if in the annual reports on the administration of the Salt and Continental Customs Department an attempt were made to estimate the actual consumption of salt in each district and province, or at least to show the quantities of salt consumed within the Presidency and exported beyond its frontiers. It is, for obvious reasons, of great importance to know whether the average consumption of salt in each locality is increasing or declining, and to what extent, and it is believed that the information contained in port returns, in the inter-station traffic returns of railways, and in the permits issued at the salt works, can, if properly collected, supply sufficiently accurate data for such an estimate. (S. of S. No. 5, dated 29th January 1880; *vide* G. R. No. 1169, dated 4th March 1880.)

4. The chief causes to which any marked variations in the wholesale price of salt at the different works may be due should be noticed in the annual administration report of the Salt Department.

It would be advisable to have a statement showing for the chief district trade centres in this Presidency the average local wholesale price of salt. This would be a useful index to the extent to which the measures adopted for preventing the making of earth-salt have succeeded, and would help to show in what districts increased vigilance is necessary. If this information were obtained, it would be possible to prepare a return showing, for the different districts, how much of the local wholesale price of salt is due to the cost of manufacture, to the incidence of the salt-tax, and to carriage. Such a return would, in time, as the causes of special fluctuation such as those connected with the salt arrangements with Native and Foreign States ceased to operate, furnish valuable materials on which to base a judgment as to the effect that changes in the price of salt have on the quantity consumed.

Information as regards the disposal of salt from Uran, Bassein, Ghodbandar, Mátunga, Sánkse,

Trombay and Panvel, similar to that supplied for the Khárághoda traffic in the report on the administration of the Salt and Continental Customs Department for 1879-80, should, if it can be supplied, find a place in future administration reports. (G. R. No. 6110, dated 18th November 1880.)

5. The Collector of Salt Revenue, Bombay, and the Collector of Salt Revenue in Sind should telegraph to the Commissioner of Northern India Salt Revenue periodically the total quantity of salt of every description on which duty has been paid and the amount of duty realized thereon from the commencement of the financial year up to the 7th, 15th, 22nd and 30th or 31st of each month, distinguishing home-made and imported salt.

The periodical telegram should be despatched in time to admit of its being delivered at Agra not later than the tenth day after the expiration of the period to which it relates, *e.g.*, the telegram supplying figures from 1st April to 7th June should reach Agra not later than the 17th, that for 1st April to 15th June not later than the 25th June, and so on. (G. I., F. & C., No. 1809, dated 20th June 1882; *vide* G. R. No. 4375, dated 8th July 1882.)

6. The Commissioner in Sind and the Commissioner of Customs, Salt, Opium and Abkári should arrange for the transmission to the Government of India of the monthly statements of salt revenue for their respective charges so as to reach that Government by or before the end of the fortnight succeeding the month to which the statements relate. (G. I., F. & C., Nos. 3271, dated 28th September 1881, and 303 S., dated 21st November 1888; *vide* G. R. No. 5948, dated 10th October 1881, and G. M. No. 8081, dated 4th December 1888.)

7. In the monthly returns the duty on salt imported by sea or land should be included, but not collections on account of ground-rent and other miscellaneous items of salt revenue, such as the sale-proceeds of the right of the occupancy for stated periods of Government salt works, cess levied on account of the proprietary right of Government in certain salt works, &c. The whole revenue from duties may be included in a lump sum in the returns with marginal remarks showing the separate items of which it is composed. When the duty entered in the returns does not correspond with the amounts obtained by multiplying the quantities on which duty was collected by the rates per maund locally current, notes should be given explaining the causes of the differences. (G. I., R., A. & C., Nos. 157, dated 10th May 1875, and 48, dated 25th January 1877; *vide* G. Rs. Nos. 2909, dated 21st May 1875, and 713, dated 3rd February 1877.)

8. The Government of India obtains through other channels the outcome of the treasury figures as regards the receipts and expenditure of the Salt Department, but what it wants from the Collector of Salt Revenue, in connection with the monthly

returns of salt revenue, for its Statistical Branch is a statement of the quantities of salt removed from the salt works and imported and the duty realized thereon at the rate current in the province. When, therefore, the quantities of salt taxed or sold have been ascertained (a matter in which the Collector is in no way dependent upon the treasuries), all that seems to be needful is to calculate the revenue on these quantities at the current rate of duty per maund. (G. I., F. & C., No. 255 C, dated 16th November 1881; *vide* G. R. No. 7100, dated 25th *idem*.)

9. The Commissioner of Customs, Salt, Opium and Abkari and the Commissioner in Sind should submit detailed comparative statements of salt revenue for the Bombay Presidency and the Province of Sind annually along with their salt revenue returns for the month of March or as soon as possible after the expiration of the year. (G. I., R., A. & C., No. 261, dated 28th June 1879, and G. I., F. & C., No. 168 C, dated 21st June 1880; *vide* G. Rs. Nos. 3575, dated 8th July 1879, and 3385, dated 30th June 1880.)

10. The Commissioner in Sind and the Commissioner of Customs, Salt, Opium and Abkari should submit annually statements showing the quantity and value of salt produced in their respective charges during the calendar year, salt made by Government being distinguished from salt made otherwise than by Government. The value of salt made by Government should be the fixed selling price at the place of manufacture or production, and in the case of other salt the wholesale market price, excluding duty, at the place of manufacture. The returns should be supplied so as to reach this Government not later than 1st February and the Government of India by 1st March. (G. I., F. & C., Nos. 4002, dated 23rd July 1888, and 274 S, dated 1st November 1890; *vide* G. Rs. Nos. 5301, dated 6th August 1888, and 8161, dated 18th November 1890.)

11. The Librarian at the Brunner Library, Northwich, in Cheshire, should be regularly supplied with a copy of the annual report on the administration of the Salt Department and of any reports of officers or committees giving details of the salt system. (G. I., F. & C., No. 1586, dated 28th March 1887; *vide* G. R. No. 3140, dated 20th May 1887; also G. R. No. 33, dated 4th January 1887.)

II.—POWERS OF OFFICERS.

1. In exercise of the power conferred by Section 4 of the Bombay Salt Act, 1890, His Excellency the Governor in Council is pleased to appoint the Political Resident at Aden to be Commissioner of Salt Revenue, and the Assistant Political Resident for the time being in charge of the local Salt Department to be Collector of Salt Revenue for the Settlement of Aden and its dependencies. (G. N. No. 1721, dated 6th March 1891.)

2. In exercise of the power conferred by Section 4 of the Bombay Salt Act, 1890,* His Excellency the Governor in Council is pleased to appoint the Commissioner in Sind to be *ex-officio* Commissioner of Salt Revenue, and the Collector† and Assistant Collector of Customs for the time being to be respectively *ex-officio* Collector and Assistant Collector of Salt Revenue for the Province of Sind. (G. N. No. 2097, dated 23rd March 1891.)

3. In exercise of the power conferred by subsection 2 of Section 10 of the Bombay Salt Act, 1890, His Excellency the Governor in Council is pleased to delegate the power vested in him by subsection 1 of the said section to the Commissioner‡ of Customs, Salt, Opium and Abkari. (G. N. No. 1297, dated 18th February 1891.)

4. In exercise of the power conferred by subsection 2 of Section 10 of the Bombay Salt Act, 1890, His Excellency the Governor in Council is pleased to delegate the power vested in him by subsection 1 of the said section to the Commissioner of Salt Revenue for the Settlement of Aden. (G. N. No. 1721A, dated 6th March 1891.)

5. The Deputy Commissioner of Customs, Southern Division, is authorized to admit charges to the extent noted in the margin provided no charge is incurred for which no budget provision or sanction exists. (G. R. No. 4683, dated 14th December 1866.‡)

<p>1. Contingent charges to the extent of Rs. 100 in each case.</p> <p>2. To sanction boat repairs to the extent of Rs. 150 in each case.</p>	<p>to the extent of Rs. 100 in each case.</p> <p>to the extent of Rs. 150 in each case.</p>
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6. All officers of the Salt Department, not lower in rank than a Coast Guard Inspector or an officer in charge of a Customs House, are empowered to act under Section 4 of the Transport of Salt Act, XVI of 1879. (G. R. No. 5956, dated 7th November 1879.)

7. The practice regarding enquiring into and determining the confiscation of articles liable to be

* This Act came into force in Sind on 2nd October 1890. (G. N. No. 6673A, dated 20th September 1890.)

† By Government Resolution No. 2097, dated 23rd March 1891, the designation of the Collector of Customs and Assistant Commissioner of Salt Revenue in Sind was altered to Collector of Customs and Salt Revenue in Sind.

‡ By Government Notification No. 6304, dated 13th September 1882, the designation of Commissioner of Customs, Opium and Abkari and Reporter General of External Commerce was altered to Commissioner of Customs, Salt, Opium and Abkari and Reporter General of External Commerce.

§ By this Resolution, similar powers were granted to the Deputy Commissioners of Customs, Northern and Presidency Divisions, also, but these offices have since been abolished. The Deputy Commissioner, S. D., is now styled Deputy Collector of Salt Revenue, S. D., and he has continued to exercise under that name the powers entrusted to the Deputy Commissioner, S. D., by the Resolution. (Letter from the Commissioner of Customs, Salt, Opium and Abkari, No. 6012, dated 18th September 1888.)

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confiscated under Section 48* of Act VII of 1873 should be uniform in all districts, and the decision of such cases should rest with the Collector of Salt Revenue. (G. R. No. 4389, dated 8th July 1882.)

8. His Excellency the Governor in Council is pleased to appoint the Collector of Customs, Bombay, the Collector of Salt Revenue, Bombay, and the Collector of Customs, Karáchi, within the local limits of their respective charges, to adjudge confiscations under Section 6 of the Transport of Salt Act, 1879. (G. N. No. 5408, dated 28th July 1886.)

9. The Collector of Salt Revenue should submit the return prescribed in Government Resolution, Financial Department, No. 1906, dated 21st July 1887, of stores in charge of the Salt Department in the Presidency Proper to the Commissioner of Customs, Salt, Opium and Abkári for scrutiny. Government have no objection to the former officer exercising the power vested in District Collectors of writing off the return articles the cost of which does not exceed Rs. 100. (G. R. No. 1045, dated 15th February 1889.)

10. The Collector of Salt Revenue, Bombay, is authorized to sanction refunds of excess payments made by traders in salt on account of duty on salt removed from the salt works in the neighbourhood of Bombay. (G. R. No. 1300, dated 24th February 1888.)

11. Leases of land let for manufacture of salt should be executed by the Collector of Salt Revenue. (G. R. No. 4328, dated 30th June 1888.)

12. The Collector of Salt Revenue, Bombay, is authorized to sign all credit bonds for the removal of salt executed by salt merchants in the Bombay Presidency. No extension of the prescribed period of credit should be allowed in any case without the sanction of the Commissioner of Customs, Salt, Opium and Abkári. (G. R. No. 3593, dated 26th May 1891.)

13. As rewards in salt cases are countersigned contingencies, and the Commissioner is the controlling officer for the Salt Department in Sind, he has power to transfer a portion of the grant of one office to that of another. (G. R. No. 9069, dated 11th December 1893.)

III.—ESTABLISHMENTS.†

1. It is sufficient to report to the Government of India changes made in the petty establishment of the Salt Department in quarterly statements. (G. I., F. & C., No. 5767, dated 31st October 1887; *vide* G. R. No. 7860, dated 17th November 1887.)

* Cf. Sections 50 and 52 (1) of Act II of 1890.

† *Vide* also orders No. 4 to 7, sub-head VI.

2. The Bombay Salt and Customs Department is authorized to entertain temporary kárkúns as weigh-clerks on salaries not exceeding Rs. 30 a month in exceptional cases for short periods to meet press of business. (G. L. F. & C., No. 4613 Ex., dated 21st October 1893; *vide* G. R. No. 8141, dated 6th November 1893.)

3. The Collector of Salt Revenue is authorized, subject to the approval of the Commissioner of Customs, Salt, Opium and Abkári, and so long as the total strength and cost are unaffected, to vary the distribution of the establishments under him to suit the pressure of work. (G. R. No. 9169, dated 14th December 1893*).

4. The pay of all employés in the Salt Department is personal. (G. R. No. 9169, dated 14th December 1893.)

5. Section 8 of Bombay Act II of 1890 and Chapter III of the Bombay Land Revenue Code, 1879, can only legally operate in respect of security bonds taken subsequently to the date on which Bombay Act II of 1890 came into force.

The provisions of Chapter III of the Land Revenue Code applicable to principals apply to employés in the Salt Department, by virtue of Section 8 of Bombay Act II of 1890, whether their security bonds may have been executed before or after the passing of the latter Act. (L. R. No. 1335, dated 10th August 1891; *vide* G. R. No. 3645, dated 25th April 1892.)

6. The practice† existing in the Salt Department regarding the taking of securities from the officers of

* *Vide* also G. R. No. 890, dated 2nd February 1895.

† "The practice was originally based on a circular, No. 61 of 1851, ... which was based on the provisions of Acts XVIII of 1838 and XII of 1850 and directed that security was only to be taken from Sar-kárkúns, Dárogas, Aval-kárkúns, Shroffs, Bandár-kárkúns, Sazedárs and other officers entrusted with the collection of revenue.

"About 1863 an order seems to have been given that no Kárkúns who had not given security were to be employed upon weighments. In 1877. Nákedárs were required to find security. Holders of the appointments of weigh-clerks and Preventive officers which were created at the revision in 1884 have also been required to furnish security, and the general result is that there is scarcely an officer in the Department, except some of the members of Huzúr Establishments and the Coast Guard Inspectors, who is not or at least ought not, according to the practice, to be required to furnish security." (Extract paras. 2 and 3 of letter No. 4630, dated 15th October 1886, from the Collector of Salt Revenue, Bombay.)

"The existing practice is so fully described in Mr. Trevor's No. 4630, dated 15th October 1886, that I need only briefly state that every officer of the Department in superior service from Sar-kárkún downwards furnishes security varying from Rs. 50 to Rs. 2,000. To this general statement there are a few exceptions, the most noteworthy being the Coast Guard and the Northern Frontier Inspectors and the Preventive Establishments in Goa and Gujarát. Two appointments are treated exceptionally, the security demanded being in each case Rs. 5,000. The one is the Cashier in the Chief Account Office and the other is the Sar-kárkún of Goa,* who is in charge of a treasury where the balance is always large and sometimes is as much as a lách of rupees." (Extract para. 2 of letter No. 342, dated 23rd January 1891, from the Collector of Salt Revenue, Bombay.)

* This Sar-kárkúnship has been abolished on the termination of the Anglo-Portuguese Treaty.

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that Department, suits the peculiar circumstances and duties of the Department, and should be continued. (G. R. No. 3645, dated 25th April 1892.)

7. Under Clause ii of Article 1092 of the Civil Service Regulations, Second Edition, one-third is fixed as the deduction to be made from the travelling allowances ordinarily admissible to Coast Guard Inspectors of the Salt Department as the fixed hire or charge for the boats and crews with which they are provided. (G. R. No. 7937, dated 7th October 1892.)

IV.—GENERAL PRINCIPLES.

1. If, in any particular, it can be shown that the importers of English salt are placed at a disadvantage as compared with the producers of native salt—whether the Government, as in Bengal, or private manufacturers, as in Bombay—measures should be at once adopted to put them on a perfect equality. (S. of S. No. 16, dated 16th December 1859; *vide* G. Ms. Nos. 582 and 583, dated 13th February 1860.)

2. The true principle which should regulate the administration of Government salt works is to allow the free purchase of salt by whoever chooses to pay the price and duty, leaving its subsequent disposal to be regulated by the demands of the trade. The policy should everywhere be to ensure, subject only to the condition of the security of the revenue, the freest and fairest competition between different kinds of salt, whether the produce of Government or of private works, and whether paying duty to the credit of one or of another Department. This principle is evidently most advantageous to the public as ensuring the largest possible supply at the lowest price, and it is equally advantageous to the revenue which benefits by the largest possible consumption. (S. of S. No. 85, dated 13th October 1881; *vide* G. R. No. 7163, dated 28th November 1881.)

3. The obvious meaning of the Secretary of State's Despatch No. 85, dated 13th October 1881, is that Government should strive to produce at its salt works the quantity of salt demanded there by the trade, but that its subsequent distribution should be left to the ordinary channels of trade. Exceptional arrangements can be permitted only where exceptional circumstances sufficiently justify interference on the part of Government. (G. I., F. & C., Nos. 2183, dated 27th July 1886, and 17, dated 7th January 1887; *vide* G. Rs. Nos. 5879, dated 17th August 1886, and 923, dated 9th February 1887.)

4. The following principles should regulate the sale of salt on behalf of Government:—

As a rule, Government should content itself with the levy of the duty and price at the sources of supply, and leave the subsequent disposal of the salt to the natural course of trade. The intervention of Government becomes necessary when from any measures taken by it (as in the case of Gujara't and Ra'jputana) there is a scarcity of salt and a conse-

quent rise in price in any particular area, or when owing to a combination of traders, prices are maintained at an unreasonably high level. Such intervention should, however, be reduced to a minimum, and be so applied as not to exclude or discourage private enterprise in the same direction, and it should cease as soon as the necessity has passed away. No measures should be adopted in order to attract business to any particular salt work or depôt which may have the effect of preventing the trade from supplying itself by the cheapest means. (G. I., F. & C., No. 2183, dated 27th July 1886; vide G. R. No. 5879, dated 17th August 1886.)

V.—SELLING PRICE OF SALT.

I. Owing to the differences of system which of necessity prevail in different parts of India, it is impracticable to fix a uniform price at which salt should be sold at all Government works throughout India. In order, however, to ensure that the price, in such instances as it lies in the power of Government to fix it, is calculated upon sound principles and not in such a manner as to compete at an unfair advantage with salt supplied to the market by private enterprise, the issue of definite instructions appears to be required.

The systems under which the Government connection with the salt trade is carried into effect are three:—

- (1) Charging a customs duty on all salt imported into British India.
- (2) Charging an excise duty on all salt manufactured in British India by private persons on their own account.
- (3) Manufacturing salt by Government on its own account, either by hired or contract labour, and selling it at a price sufficient to cover the cost of so doing, together with a fixed duty equal to the customs or excise duty.

Under the first two systems Government confines itself to taxation; under the third it undertakes the functions of a private manufacturer in addition. In former days the Government was not only a manufacturer but an absolute monopolist; but in 1836 it so far abandoned this position, on the recommendation of a Committee of the House of Commons, as to throw open the salt import trade to private enterprise, retaining a monopoly of local manufacture only. From that date onwards, it has been gradually relinquishing direct manufacture in all cases where the necessary supply of salt to the public could be ensured under either the customs duty or the excise duty systems.

The three systems at present prevail in the localities described below:—

- (a) *Customs duty*.—Bengal (including Behar), Assam and British Burma.

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(b) *Excise duty*.—Western India, from the Tápti river south to Cape Comorin, Berár, and the south-west portion of the Central Provinces; also a few spots in Bengal and Orissa, and to a limited extent in Burma.

(c) *Manufacture and monopoly*.—The east coast of the Madras Presidency, the rest of the Central Provinces, Bombay north of the Tápti, Sind, the Punjáb, the North-Western Provinces and Oudh, Rájputána and Central India.

This classification is, of course, in very general terms; the different salts compete with each other on the boundaries, and interlace in their areas according to local taste and preference and not price alone; but it may be considered substantially correct.

The charges of all kinds which fall on Government from its connection with salt may be described and classified as follows:—

1. Cost of administration.	}	Charges common to all systems and arising out of the Government taxation of salt.
2. " collection.		
3. " preventive establishments.		
4. " production.*		
5. " conveyance to store-house.	}	These charges appertain to all systems under which Government either produces salt, by hired labour, or buys the salt from the actual producer for resale to the public.
6. " storage.		
7. " wastage.		
8. " interest on capital, fixed or floating.		
9. Treaty payments.	}	These appertain to the same systems as the preceding. Treaty payments are not always of the same nature; in some instances they correspond with rent which might be paid by a private manufacturer for mines or salt works; in others they are payments to secure the suppression of manufacture in Foreign States, or the right to charge duty on salt consumed in such States.
10. Rent of salt sources.		
11. Cost of supervision of production.	}	Found only when Government produces the salt by hired labour.
12. Commission to agents and contractors on sales.		

It will be observed that cost of conveyance from store-house to market is not mentioned, because it is outside the purposes of these calculations, and necessarily falls on the consumer in proportion to his distance from the salt source from which he draws his supplies. In some cases, moreover, where the depôts are at a distance from the market, the cost of conveyance to them may be advanced by Government, and recovered in ordinary course.

* This may be defined as "the mere making of the salt, i. e., the total cost up to the time when so much salt is laid down in a marketable condition at the very spot where it was made."

On a scrutiny of the charges enumerated in the preceding paragraph, it will be seen that the first three only, *viz.* administration, collection and prevention, are incidental to the interference of Government, for taxation purposes, in the matter of salt. The remainder are all borne alike by Government and private individuals whenever either of them undertakes the trade of producing and selling salt. From this and economic principles which are so evident that it seems superfluous to set them forth it follows that whenever Government and the private trader meet, they do not do so on fair terms, and the latter is unjustly weighted, unless the former scrupulously includes in its selling price (exclusive of duty) whatever items the latter has ordinarily to bear. To be more specific, the first three items of charge just mentioned should be paid out of the receipts for duty, the rate being fixed accordingly, if necessary; the remainder should all come into the calculation of the selling price, with the exception of such treaty payments as are made for the prevention of smuggling, or in order to secure for the British Government the right of charging duty on salt consumed in Foreign States. If the selling price is less than it should be, in order to cover all the proper items, a particular locality benefits at the expense of the general tax-payer; if the reverse, the Government is really levying more than the tax allowed by law, excepting of course in the case of salts which, from superior quality and limitation of supply, have an adventitious market value not dependent upon the cost of production. The price may also, in special cases, be affected by the place in which the salt is sold, the quantity included in any transaction, the sum paid by the Government for its purchase, or other peculiar circumstances affecting the sale.

To apply the test of these principles to every salt work or group of works with which Government is more or less connected, would in this place be a tedious and unnecessary task. It is sufficient to state that a very careful review of the Indian salt system which has been made shows that in Bengal, Bombay, Sind and the Punjab mines, Government makes no attempt to impose any charge on salt other than the fixed duty, and, in any case where Government holds a monopoly of salt, a selling price which is calculated to cover the cost of manufacture.

His Excellency the Governor General in Council has considered it to be necessary, in view of the discussions which have arisen, and the uncertainty which has prevailed, to lay down the principles upon which the selling price of salt should be regulated in all parts of British India in which it is fixed by the Government. It will rest with the Local Governments and the Commissioner of the Inland Customs, within their respective jurisdictions, to scrutinise periodically the price from time to time in force, and to take into consideration such adjustments as an increase of sales, or of expenditure, or

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otherwise, may be found to demand. (G. I., F. & C., No. 326, dated 17th January 1882; *vide* G. R. No. 743, dated 2nd February 1882.)

2. The entire cost of the salt manufacture' storage and establishments as well as the expenditure incurred by Government on account of its transport to depôts should be recovered from the sums realized from the sale of the salt apart from and in excess of the duty charged thereon. (G. I., R. A. & C., No. 291, dated 13th September 1878; *vide* G. R. No. 4937, dated 26th *idem*.)

3. The charges of which the Government of India has ordered the recovery from the sale-proceeds of salt are those incurred for the manufacture and sale of salt and not the cost of establishments maintained to collect and protect the public revenue. The charges for guarding the works, for office establishments, for watching the frontiers and natural deposits, and for preventing smuggling are not to be taken into account. For all other charges connected with the production and sale of the salt, an additional sum should be added to the price charged at the pans. To this a further addition for storage and freight will of course be made when the salt is transported for sale. An account of the whole of the charges debitable against this addition to the selling price and the amount realized by it should be carefully kept and submitted with the yearly report on salt administration. (G. R. No. 2277, dated 29th April 1879.)

4. In exercise of the powers conferred by Section 8 of the Indian Salt Act, 1882, and in accordance with special orders made by the Governor General in Council in that behalf, the Governor in Council is pleased to fix the minimum price at which salt sold by or on behalf of Government at the Settlement of Aden shall, on and after the 1st day of April 1891, be sold at the following rate, namely, at 7 pies per 28 lbs. avoirdupois. (G. N. No. 2096, dated 23rd March 1891.)

VI.—MANUFACTURE OF SALT, AND LICENSEES.

1. The disposal of applications for permission to open new salt works shall, subject to the control vested in the Governor in Council and in the Commissioner by Bombay Acts* VII of 1873 and V of 1832, be regulated by the following rules:—

*Repealed by Act II of 1890.

1. All applications for permission to manufacture salt are to be made to the Collector of Salt Revenue.

2. On receipt of any such applications the Collector of Salt Revenue shall in the first place make such enquiry as may be necessary to determine whether manufacture should be allowed or not in the locality referred to in the application. If it shall appear to him that manufacture may be allowed, and if the land be unoccupied, he shall report the result of his enquiry, with his own opinion and the grounds thereof, to the Commis-

sioner of Salt Revenue, and shall, if the Commissioner so directs, apply to the Collector of Land Revenue to have the land placed at his disposal for salt manufacture in accordance with Rule 7 (b) of the rules under the Bombay Land Revenue Code.

3. If the Collector of Land Revenue agrees to the appropriation of the land for salt manufacture, the Collector of Salt Revenue shall thereupon have the land surveyed and cause a scheme to be prepared for its conversion into one or more salt works, on such plan and of such dimensions as he may consider most advantageous.

4. The scheme shall embody a plan showing the position, shape and dimensions of the work or works to be constructed, and of pans, reservoirs, banks, storage platforms, channels, paths, &c., the routes by which only the salt is to be removed, the number and description of chaukis and other buildings to be provided by the manufacturer, the contribution to be paid towards cost of additional establishment, the rate of ground-rent to be levied, and all other particulars and conditions which the circumstances of the case may demand or which may from time to time be prescribed.

5. (1) The Collector shall submit the scheme and plan so prepared to the Commissioner.

(2) On receiving from or through the Commissioner instructions as to the scheme and plan finally approved, the Collector of Salt Revenue may proceed to dispose of the right to construct the salt works and to manufacture salt in accordance with it either to the original applicant, if there be no others, or by inviting tenders, or by auction; or, if there be insufficient competition, may lease the ground for a suitable term of years, on condition that the work constructed thereupon shall revert to Government on the expiry of the lease.

(3) In the event of the Collector desiring to substitute a lease for a term of years instead of putting up to auction the right to manufacture, &c., he shall, before passing orders, submit the matter to the Commissioner, and act in accordance with his directions.

6. The person whose application, tender or bid is accepted, or to whom the ground may be leased, shall be required to conform strictly to the scheme, any departure from which, except with the permission of the Collector in writing under sanction previously obtained from the Commissioner, will entail forfeiture of the permission to manufacture.

7. The Collector of Salt Revenue may, at any time of his own motion under sanction previously obtained from the Commissioner, apply to the Collector of Land Revenue to set apart for salt manufacture any unoccupied and unassessed land which he considers suitable and likely to be required for that purpose, and on the land being set apart may either at once proceed to prepare a

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scheme and dispose of the right of manufacture, or await applications, as may seem most advisable.

8. It is to be distinctly understood that the right to manufacture salt conferred by the Collector of Salt Revenue under the foregoing rules, whether for a term of years or otherwise, will be distinct from the occupancy and includes no proprietary right. On the determination of the right to manufacture, whether by expiry, forfeiture or otherwise, the possession of the ground and of any works constructed on it reverts to Government absolutely.

9. (1) When the application relates to occupied land, the Collector of Salt Revenue, if he considers that manufacture may be allowed, shall inform the applicant of the terms upon which permission will be given, and refer him to the Collector of Land Revenue. On the receipt of an intimation that no objection to such appropriation exists on the part of the Land Revenue Department, the Collector of Salt Revenue shall, in consultation with the Collector of Land Revenue, consider on which of the alternative conditions mentioned in Rule 7 (C)* of the Bombay Land Revenue Code Rules the permission to appropriate and the license to manufacture should be granted, and shall submit the result of such consideration to the Commissioner of Customs, Salt, Opium and Abkari.

*Printed at pages 10-11 of the Compilation of General Rules.

(2) If under instructions received from the Commissioner it is decided that the occupancy should be relinquished and that a lease shall be granted in its stead, the Collector of Salt Revenue shall prepare a scheme under Rule 4 of these rules. In any other case the terms on which the license to manufacture salt shall be granted shall be such as may from time to time be prescribed. All decisions under this rule shall, before the application is finally disposed of, be communicated to the applicant, who, if the license to manufacture salt is granted, will be bound by all the conditions so decided on. (G. N. No. 1733 B, dated 5th March 1890.)

2. The following form of license for the manufacture of salt is for use in the case of all licensees who have not established by sanad, under Section 21† of the Bombay Salt Act, 1873, a special and permanent right to manufacture salt. In the case of the excepted licensees, clauses 5 and 6 of the license should be omitted, because the rights referred to in those two clauses would depend upon their sanads :—

†Vide Section 16 of Act II of 1890.

I, _____, Collector of Salt Revenue,
do hereby authorize and empower _____ now
dwelling at _____ in the taluka of _____
in the district of _____ to manufacture salt at
_____ called _____ situate at
the village of _____ in the taluka of _____
and in the district of _____ within the belowmen-
tioned limits, viz., an area comprising _____
bounded on the north by _____ on the south
by _____ on the east by _____ and on

the west by provided that he conform to the following conditions which have been prescribed by His Excellency the Governor in Council in this behalf, and to all or any other such conditions which may hereafter be prescribed by His Excellency the Governor in Council in amendment of, or in addition to, the said conditions hereinafter set forth, viz. :—

(1) That he shall make his own arrangements to acquire possession of the ground on which he is hereby permitted to manufacture salt, if the said ground is not already in his possession, and if salt is to be manufactured on the said ground for the first time, he shall complete all preliminary arrangements, in time to commence the manufacture of salt within two years from the date of this license, failing which this license will be recalled.

(2) That he shall not make any alteration in the disposition (as it exists, if the land is already under salt manufacture, or as it may be finally settled before commencement of manufacture) of the land within the aforesaid limits by forming new pans, or enlarging or altering existing pans, or in any other manner without first obtaining the written permission of myself or of my successor in office for the time being.

(3) That he shall pay on demand such sum as may at any time be determined by myself or by my successor in office at the time being on account (1) of the expenses of any survey that may be ordered by me, or by my successor in office for the time being, of the land within the aforesaid limits, and (2) of preparing maps thereof.

(4) That he shall not use the land within the aforesaid limits for any purpose unconnected with the manufacture and storage of salt.

(5) That he shall not without the written permission of myself or of my successor in office for the time being, sublet, sell, mortgage or otherwise alienate, wholly or in part, the privilege granted by this license of manufacturing salt on the land within the aforesaid limits.

(6) That if the whole or any portion of the land within the limits aforesaid is taken up for a public purpose as defined in Act X* of 1870, the licensee shall not have any claim to compensation for the consequent deprivation of liberty to manufacture salt on the land so taken up.

*Repealed by Act I of 1894.

(7) That he shall pay ground-rent at the rate of or such other rate as may from time to time be fixed by me, or my successor in office for the time being, under the orders of Government.

(8) That he shall produce this license whenever called upon by an officer of the Salt Department.

(9) That he shall observe all the provisions of (Bombay Act VII of 1873)† and of any other enactment relating to the salt revenue at the time in force and of any rules or orders duly made and promulgated, or communicated to him by competent authority under the said Act or any other such enactment as aforesaid relating to the manufacture, storage, removal or sale of salt or to the conservancy or regulation of the land within the limits aforesaid.

† Now Act II of 1890.

(10) That in this license the word "licensee" shall be deemed to include the licensee, his heirs, executors and administrators.

(Additional condition to be inserted only when the licensee is lessee of Government salt pans.)

(11) That he shall act in all respects in conformity with the terms of the agreement executed by him under date the by virtue of which he is placed in possession of the said pans.

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(Additional condition to be inserted only when the licensee has agreed to pay the cost of establishment required for guarding his work.)

(12) That he shall pay monthly in advance Rs. on account of the cost of the establishment employed as shown in the margin for guarding his salt work and that in the event of his failing to make punctual payment of any money so payable, the amount due shall be recoverable by myself or by my successor in office at the time being by distraint and sale of any salt belonging to him, or in any other manner authorized by law.

And this license shall continue in force from the until the and no longer, but shall be liable to be revoked, suspended or withdrawn at any time by competent authority under any of the provisions of (Bombay) Act VII of 1873 or of any other enactment relating to salt revenue at the time being in force.

Given under my hand and seal at on this day of in the year



(Signed)

(L. R. No. 626, dated 16th May 1885; *vide* G. R. No. 4917, dated 16th June 1885.)

3. There is no legal necessity for requiring licensees under the Bombay Salt Act to execute counterpart agreements. It will be sufficient if each licensee is required to sign an acknowledgment for the license issued to him. (L. R. No. 626, dated 16th May 1885; *vide* G. R. Nos. 4917, dated 16th June, and 6339, dated 6th August 1885.)

4. It should be clearly understood that in all future cases the proprietors of new salt works will be required to pay *all* establishment charges. (G. R. No. 2972, dated 18th April 1889.)

5. While exceptional service rendered to Government may create a claim to substantial recognition by Government, such recognition should not involve injurious treatment to other persons who are competing in the same description of business. The principle of granting to particular manufacturers, or traders special concessions which favour them, at the expense of the general tax-payer, in the competition with others gaining their living in the same industry is so manifestly indefensible that no lengthened argument is required to show that it ought not to be permitted. In future therefore no concession should be given as regards exemption from the payment of the cost of the establishment required for supervising and guarding salt works opened by private individuals. (G. L. F. & C., Nos. 3659, dated 17th July 1889, and 1307, dated 18th March 1890; *vide* G. R. No. 2629, dated 16th April 1890.)

6. The establishment maintained at the cost of shilotris (farmers of salt works) for guarding their salt works should be included in the sanctioned strength of the Salt Department. The Accountant

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General is authorized to admit charges on account of establishments entertained from time to time at the cost of shilotris on the understanding that an annual statement showing the increase or decrease in the sanctioned strength in connection with such establishments is submitted for the information and approval of Government at the close of each financial year. The Commissioner of Salt should furnish to the Accountant General a monthly statement showing the amounts recovered and remaining to be recovered from the shilotris. (G. R. No. 3008, dated 21st April 1886.)

7. In respect of the establishments employed in guarding the salt works at the cost of the proprietors, the contributions for pension and leave allowances required under Article 854 of the Civil Service Regulations should be recovered from the proprietors in addition to the cost of the establishments. (G. R. No. 7503, dated 22nd October 1890.)

8. It is of the greatest importance to enforce the responsibility resting on licensees of salt works to prevent the removal, under permit, of salt from their salt works in excess of the quantities mentioned in the permits. The rules regulating the removal of salt should be strictly worked, and penalties should be exacted from *all* parties concerned in the removal of excess salt, especially in cases in which excesses in the number of bags removed are discovered. Leniency in the last named classes of cases will generally be out of place, as the taking into a salt work of empty bags in excess of the number allowed to be filled in is forbidden, and the full bags of each consignment have to be counted before any of them are allowed to be removed from the storage platforms. The licensee, the trader and the Sazedár are each bound to count the bags, and *accidental mistakes* are therefore impossible. (G. L. No. 82P, dated 23rd May 1891.)

VII.—TRANSPORT.

1. His Excellency the Governor in Council is pleased under Section 3, Clause (c), of Act No. XVI of 1879, to exempt from the operation of Section 2 of the said Act such amount of salt not exceeding half a Bengal ser for each person on board as may be carried on any vessel for consumption by her crew or by the passengers on board. (G. N. No. 66, dated 6th January 1880.)

2. The small craft employed by contractors for the supply of salt to the States of Cochin and Travancore should be specially exempted from the restriction as to tonnage prescribed by the Transport of Salt Act, 1879. (G. L., F. & C., No. 1045, dated 8th March 1881; *vide* G. R. No. 1649, dated 21st idem.)

3. The words 'burden of 300 tons' used in Section 2 of the Transport of Salt Act, 1879, mean the gross tonnage of a vessel and not the net tonnage.

It is a well-established rule that penal enactments are to be strictly construed. 'The effect of

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the rule of strict construction,' says Maxwell, 'might almost be summed up in the remark that where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the benefit of the doubt should be given to the subject and against the Legislature which has failed to explain itself.'

Pages 345, 346, second edition.

It is true that this rule 'yields to the paramount rule that every statute is to be expounded according to the intent of them that made it.' But the 'legislative intent,' *i.e.*, the policy and object of the Legislature, was, as appears from the statement* of objects and reasons, merely to prevent the surreptitious landing and smuggling which it was then apprehended was carried on by 'very small craft,' and the original draft of the Act shows that it was intended to apply only to small vessels. There is no reason for supposing that it was intended to apply to vessels whose burden could only be reduced below 300 tons, by applying certain technical rules of measurement established for purposes foreign to the Act. (L. R. No. 604, dated 29th May 1893; *vide* G. R. No. 4584, dated 26th June 1893.)

Maxwell, p. 346.

*Page 18 of the B. G. G. for 1877, Part VI.

Abstract of Legislative Proceedings of the Governor-General of India in Council, Vol. XVI, p. 16, and Vol. XVIII, p. 228.

VIII.—DUTY.

1. His Excellency the Governor in Council is pleased to order that on and after the first day of October 1874 no salt will be permitted to be exported by sea from any place in the Presidency of Bombay unless there shall have been paid in respect of such salt the full excise duty to which it may be liable under Act No. XXIV of 1869, or any other law for the time being in force. (G. N. dated 2nd September 1874; *vide* also G. R. No. 4575, dated 26th August 1874.)

2. In exercise of the powers conferred by Section 7 of the Indian Salt Act, 1882, and in supersession of notifications by the Government of India in the Department of Finance and Commerce, Nos. 1449, dated 10th March 1882, and 751, dated 28th April 1882, the Governor General in Council directs that on and after the date of this notification, the duty to be paid on salt manufactured in or imported by land into British India shall be as follows :—

- (a) in the case of salt manufactured in or imported by land into Lower Burma—one rupee for each maund of $82\frac{2}{7}$ pounds avoirdupois weight, and
- (b) in the case of salt manufactured in or imported by land into any other part of British India, except that portion of the territories administered by the Lieutenant-Governor of the Punjab which lies west of the river Indus, two rupees eight annas for each maund of $82\frac{2}{7}$ pounds avoirdupois weight.

(G. I., F. & C., Notn. No. 343, dated 19th January 1888; *vide* G. N. No. 423, of the same date.)

3. In exercise of the powers conferred by Section 7 of the Indian Salt Act, XII of 1882, and in modification of the notifications by the Government of India in the Department of Finance and Commerce, Nos. 2469, dated 3rd August 1883, and 343, dated 19th January 1888, the Governor General in Council is pleased to make the following rule :—

On and after the first day of March 1891, the duty to be paid on salt manufactured in Aden shall be one rupee per 140 pounds avoirdupois.

(G. I., F. & C., Notn. No. 823, dated 25th February 1891; *vide* G. N. No. 1667, dated 4th March 1891.)

4. As regards salt used for packing hams, bacon and other salted provisions imported by sea, except where the salt is declared by the appraiser to be in trifling quantity and unmerchantable, in which case it need not be noticed by the Custom House, duty should be taken on the declared quantity verified by the appraiser, and a special pass should be given to the importer for the protection of the salt. In case the importer objects to pay duty, the salt should be destroyed in the presence of Customs officers.

The duty levied at the time of importation may be refunded on production of the salt before any Treasury officer (for destruction) together with the certificate of payment of duty. (G. I., F. & C., No. 46-S., dated 20th February 1883; *vide* G. Rs. Nos. 2031, dated 10th March 1883, and 1908, dated 1st March 1884.)

5. As regards the question as to the rate of duty to be paid on salt in cases in which payment has been made before an altered rate of duty comes into operation, the general rule seems clear, and whatever difficulty there may be lies in its application to the circumstances of each case. If payment of duty has been made in respect of a particular quantity of salt, the purchaser is not liable to pay enhanced duty if the duty be enhanced, or to a refund if the duty be reduced before the salt is actually removed. But if all that has happened has been that a certain sum of money has been paid to the salt authorities as a deposit against which the person making the payment is entitled to draw by making applications for the removal of salt, then that person is liable to pay duty at the rate for the time being in force, whether enhanced or reduced, on all salt to which a part of the sum deposited has not been appropriated before the enhancement or reduction. The date of payment and not the date of application is the test, in all cases in which the payment has been appropriated to a particular quantity of salt. (Adv. Gen. Nos. 9, dated 20th February 1888, and 37, dated 25th June 1888; *vide* G. M. No. 2262, dated 13th April 1888, and G. R. No. 4512, dated 9th July 1888.)

6. Credit for excise duty and other Government charges payable on salt to be removed from

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salt works or depôts in the Bombay Presidency is allowed under the following rules :—

(1) Persons desirous of availing themselves of the concession must execute agreements in the form appended to these rules, and must also fully endorse and deposit with the Collector of Salt Revenue, Government Promissory Notes, Treasury Loan Acknowledgments, Treasury Bills, Bombay Port Trust Bonds, or Bombay Municipal Debentures as security for the due performance of such agreements. Each agreement must be written on stamped paper of the value of eight annas.

(2) The depositor will be entitled to receive salt to the amount of credit given to him as shown in the Collector's receipt for his deposit. The credit will be fixed according to the market value of the securities, a deduction at the discretion of the Collector being made therefrom to meet the contingency of depreciation in the value of the securities during the currency of the credit.

(3) No agreement will ordinarily be made or account opened for a less sum than Rs. 2,000, nor shall the credit extend beyond 60 days; except in the case of salt exported to Calcutta, in which case 90 days' credit will be allowed. At the close of the prescribed period, the depositor must adjust his account, and it will be then open to him to apply for a new credit.

(4) The securities will be lodged in the Bank of Bombay. The interest accruing on them during the time they remain deposited with the Collector will be drawn by the Collector of Salt Revenue, and passed to the credit of the depositor's account current kept by the Collector as hereinafter provided.

(5) The Collector will grant a receipt for the securities deposited with him, and this receipt must be produced and given up when the depositor redeems his securities or closes his account. The amount of credit given will also be shown in the receipt.

(6) If so desired by the depositor, an account current between him and Government will be kept by the Collector of Salt Revenue at his office in Bombay, and will be open to the inspection of the depositor or his duly authorized agent on week days during office hours.

(7) It will be optional with a depositor to close his account at any time previous to the expiration of the term of credit by paying the amount shown to be due by him, and thereupon to receive back his securities.

(8) The depositor must apply in writing to the Collector of Salt Revenue for salt, stating the quantity he requires, and the salt work or depôt from which he proposes to remove it. If the Collector agrees to comply with the requisition, the Chief Account Officer will furnish the depositor with a delivery order on the proper officer, and

enter the amount of excise duty and Government charges leviable and payable on such salt to the depositor's debit in the account current.

(9) At the expiration of the term of credit, the depositor must pay the balance then due from him on his account current for all the salt removed by him on credit. Should he fail to do so, he must pay interest on such balance, from the date on which the credit commenced to run, at the rate of 12 per cent. per annum, and the Collector may proceed to realize the amount due for principal and interest by the sale of the depositor's securities. Any surplus accruing on such sales will be paid to the depositor. Any loss which may be sustained in the event of the depositor's securities not realizing the sum due by him for principal and interest shall be forthwith paid by the depositor.

(10) Payments are to be made for the present at the office of the Collector of Salt Revenue in Bombay. If any depositor should prefer to make payments into a Government Treasury in the Mofussil, special application may be made to the Collector of Salt Revenue.

(11) Depositors must conform to the authorized rules at each salt work or depôt.

Form of bond for the removal of salt on credit.

An agreement made the _____ day of _____
one thousand eight hundred and _____ Between the
Secretary of State for India in Council, of the one part,
and _____ of the other part.

The said _____ having fully endorsed and
deposited with the Collector of Salt Revenue, Bombay, for
the time being, the securities hereinafter mentioned, that is
to say,

for securing the payment by him the said
_____ his executors, administrators, or personal
representatives to the said Secretary of State, his successors
or assigns, of all money which shall at any time or times
become due, or owing from the said
_____ his executors, administrators, or personal representatives to
the Government of Bombay on account of Government dues
and other charges on salt removed from _____ on
credit under the rules regulating such credit (a copy whereof
is hereunto annexed), or which shall at any time or times be
at the debit of the said _____ in his account
current with the said Government in respect of such removals
of salt on credit, it is hereby agreed between the said parties
hereto, the said Secretary of State agreeing for himself, his
successors, and assigns, and the said

_____ for himself, his executors, administrators, and
personal representatives that the said securities so deposited
as aforesaid, shall be subject and liable to all the provisions
of the said rules and to such sale and appropriation of
proceeds as therein provided. Further, that the interest
which shall accrue due on the said securities while they
remain in deposit with the Collector of Salt Revenue for the
time being shall be drawn by such Collector and credited
in such account current as aforesaid. And lastly, that each
of the said parties hereto shall and will adhere to the said
rules, and shall and will be bound thereby and by every
stipulation and provision therein contained. In witness
whereof _____ Esquire, Collector of Salt
Revenue, has, by order of the Governor of Bombay in Coun-

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cil, set his hand and his seal of his office hereto for and on behalf of the said Secretary of State, and the said
 has hereunto set his hand the day
 and year first above written.



Signed by the said
 In the presence of
 Signed by the said
 In the presence of

(G. Rs. Nos. 6162, dated 24th November 1874, and 4893, dated 18th July 1891.)

7. The system which has obtained in Bombay since 1874 of giving credits to wholesale traders for duty and other charges payable on salt which they remove from the salt works and depôts on their depositing with the Collector blank-endorsed Government securities, if it is properly and freely worked, gives the trade advantages which are nearly if not quite equal to those which it would derive from the system of export under bond. The Governor General in Council will therefore not press for the introduction of the system of permitting export under bond on the understanding that the credit system is freely and liberally worked. (G. I., F. & C., Nos. 923, dated 14th February 1882, and 2718, dated 28th July 1882; *vide* G. Rs. Nos. 1484, dated 6th March 1882, and 5423, dated 12th August 1882.)

8. It is not desirable that any general extension of the credit system should be allowed. The object for which the system was introduced in this Presidency was to give the first hand dealers time to take salt from the salt works to its destination and to dispose of it there before they were called upon to pay the excise duty thereon. The period now allowed—*viz.* ninety days in the case of exports to Calcutta and sixty days in the case of exports to other places—is amply sufficient for this purpose in the large majority of cases, and it is certainly undesirable to postpone the realization of salt duty, or any other item of revenue, longer than is necessary. The maximum period of credit now in force should not be altered without the previous sanction of Government, but *in special cases* the Collector of Salt Revenue should be allowed discretion to extend, with the approval of the Commissioner, credits beyond the period for which they were originally granted. The limit of credit is for the present fixed at Rs. 2,000 subject to reconsideration after further experience. It should be noted that credit transactions are troublesome in many ways and need careful handling by both the head-quarter office and the sarkarkúns in charge of salt talukas, and it is not advisable to multiply them in a rash or hasty manner. (G. R. No. 8597, dated 3rd December 1890.)

9. A wastage allowance of 5 per cent. on shipments of salt in square-rigged vessels from Bombay and Karáchi to Calcutta may be granted on the following conditions:—

Full duty should be levied on the salt as it leaves the works, and after the shipment is completed a 5 per cent. drawback be allowed the shipper. From this drawback should be deducted the duty on any difference that may be apparent between the quantity removed from the works and the quantity shipped. The quantity of salt for which permit was granted and the quantity on which drawback was allowed should be endorsed on the manifest. On the arrival of the cargo at Calcutta the difference, if any, between the Bengal and Bombay duties should be levied on the quantity for which permit was granted *minus* the 5 per cent. wastage allowance, and full Bengal duty should be levied on all salt landed in excess of that quantity.

It should be clearly specified in the ship's manifest that she left Bombay (*a*) with so many maunds of salt on which the Bombay rate of duty has been levied, and (*b*) with so many maunds on which no duty has been paid, drawback having been allowed on that quantity; calculation of these figures being sent by post to the Collector of Customs, Calcutta, as soon as each ship clears out of Bombay for Calcutta.

These rules apply to salt shipped in bags as well as to salt shipped loose. (G. Rs. Nos. 3256, dated 9th June 1875, 3449, dated 1st July 1879, and 7990, dated 21st October 1889; and G. I., R. A. & C., No. 196, dated 11th August 1876; *vide* G. R. No. 4930, dated 29th *idem*.)

10. The foregoing rules (Order No. 9) are extended to shipments of salt to Madras, Cochin, Ponani, Beypore, Calicut, Badajara, Tellichery, Cananore and Mangalore. (G. I., F. & C., No. 110, dated 9th January 1880; *vide* G. Rs. Nos. 326, dated 21st *idem*, and 2556, dated 15th May 1880.)

11. The Collector of Salt Revenue is not to permit salt to be removed free of duty, in lieu of quantities accidentally lost at sea after the consignments have left the preventive station. (G. R. No. 3671, dated 19th May 1893.)

12. Salt made at the Italian salt works at Aden may be allowed to be exported to Zaila free of duty. The right of Government to levy duty on the salt if and when it pleases at the rate in force in India should, however, be expressly reserved. (G. I., F. & C., No. S. R. 4344, dated 25th October 1892; *vide* G. R. No. 9011, dated 16th November 1892.)

13. The question of the issue of salt, free of duty, to be used in the manufacture of soap and alkali is becoming one of some importance, and the Governor General in Council is strongly in favour of an attempt being made to issue duty-free salt for these purposes under proper restrictions and with suitable precautions. His Excellency in Council believes that precautions which will sufficiently protect the revenue can be taken at a moderate cost. Each Local Government is accordingly empowered to make such arrange-

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ments as it may deem necessary for the purpose indicated. The arrangements should be made subject to the final decision of the Government of India, to whom they should be reported. It must be understood that the manufacturer is to bear any extra cost for preventive establishments, &c., which the grant of the concession may necessitate, and that the privilege is liable to be withdrawn if experience shows that it is being abused or that the revenue is suffering. (G. I., F. & C., No. 95, dated 5th January 1883; *vide* G. R. No. 1189, dated 7th February 1834.)

IX.—RULES UNDER THE BOMBAY SALT ACT.

1. By virtue of the authority vested in him by Section 35* of Bombay Act VII of 1873, His Excellency the Governor in Council is pleased to direct that on and after the first June 1876 next the provisions of that section and of the rest of Part IV of the Act shall be deemed to be, and be in force in every place situated in British territory within the taluka of Dhandhuka of the Ahmedabad District and within a distance of ten miles from the frontier of Kathiawar. (G. N. dated 12th January 1876; *vide* G. R. No. 266 of the same date.)

*Cf. Section 36 of Act II of 1890.

2. In exercise of the power conferred by Section 58 of the Bombay Salt Act II of 1890, and in supersession of Government Notification No. 4818†, dated 27th June 1883, the Governor in Council is pleased to make the following rules for regulating, with reference to the Shaikh Othman salt work at Aden, the matters referred to in the said section:—

(1) In these rules the words “the said salt work” mean the Shaikh Othman salt work which is situated on the foreshore to the west of the pier at Shaikh Othman, and is bounded by pillars as follows:—

Pillar No. 1 is on the foreshore at a distance of 385 feet from the centre of the pier.

From Pillar No. 1 to Pillar No. 2 bearing 358°, distance 235 feet.

From Pillar No. 2 to Pillar No. 3 bearing 297°, distance 2,070 feet.

From Pillar No. 3 to Pillar No. 4 bearing 287°, distance 1,959 feet.

From Pillar No. 4 to Pillar No. 5 bearing 271°, distance 1,315 feet.

From Pillar No. 5 to Pillar No. 6 bearing 200°, distance 355 feet.

(2) No salt manufacturer or other person shall approach, enter or leave the said salt work except at the chauki near Pillar No. 2.

(3) Except with the written permission of the Collector of Salt Revenue no person shall remain within the limits of the said salt work at any time during the hours between 6 P.M. and 6 A.M.

(4) Salt manufactured at the said salt work

shall be cleared and deposited by the manufacturers in heaps at the head of the pans in which it has been manufactured, and no salt shall be removed from any such heap until the proper excise duty has been paid and a permit obtained for its removal.

(5) The officer of the Abkari and Salt Departments in charge of the said salt work shall himself weigh or cause to be weighed out under his supervision the quantity of salt mentioned in any order or permit presented to him under Section 32 or Section 33.

(6) Salt intended to be conveyed to Khor Maksar, Shaikh Othman, Imad, Bir Jabir, Hiswa or beyond British territory by land shall pass the preventive station at Police Station No. 2 at Shaikh Othman.

Salt intended to be conveyed to the Fortress of Aden by sea for local consumption or for export by sea to other ports shall pass the preventive station on the pier at Maala.

(7) Salt intended to be conveyed into the Fortress of Aden by land shall pass the preventive Station at Barrier Gate.

(8) Whoever infringes Nos. 2, 3, 4, 6 and 7 of the foregoing rules shall for every such infringement be liable to fine which may extend to fifty rupees and in default of payment of the fine to imprisonment of either description which may extend to one month.

(G. N. No. 2096A, dated 23rd March 1891.)

3. In exercise of the powers conferred by Sections 37, 52, 58 and 59 of the Bombay Salt Act, 1890, the Governor in Council is pleased to make the following rules and to direct that on and after the 15th November 1893 the same shall have force in supersession of all existing rules on the same subjects respectively:—

Preliminary.

Short title. (1) These rules may be cited as the Bombay Salt Rules, 1893.

Deposit and Storage of Salt at Salt Works.

(1A.) No person shall allow any salt which is under his control to lie unheaped for more than 10 days or for a period longer than that allowed under any general or special order communicated to him as made by the Collector of Salt Revenue in this behalf.

(2) Except before first storage in heaps at a salt work or after removal to a distance of at least one mile beyond a preventive station, no person shall sift or spread out any salt to dry except with the special sanction of the Commissioner.

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(3) Before first storage no person shall sift salt or spread it out to dry except in places appointed by the Sarkárkún for that purpose.

And in places appointed by the Sarkárkún.

(4) The licensee shall be bound to store the salt produced in or during each manufacturing season separately from the salt produced in or during every other manufacturing season, unless specially permitted by the Sarkárkún to do otherwise.

Separate storage for the salt of each season.

(5) No person shall construct or cause or allow to be constructed any storage platform or salt heap in any shape or of any size or in any situation other than such as may be in accordance with the general or special orders of the Collector of Salt Revenue for the time being in force and applicable in that behalf.

Storage platforms.

(6) When a heap of salt has been broken open to satisfy a permit, the licensee shall not, except with the written permission of the Sarkárkún, allow any other heap in the same salt work to be resorted to for the same permit until the heap first opened has been disposed of and cleared away.

No second salt heap to be opened till heap previously opened is exhausted.

(7) No person shall open or cause or allow to be opened any salt heap which he has been directed by the Sarkárkún not to open. The licensee shall close in such manner as the Sarkárkún may direct any salt heap which has been opened.

Limit to opening of salt heaps.

(8) No person shall add to, or remove from, or cause or allow additions or removals to be made to or from, any salt in a heap that has been partly made and not completed, if loss by smuggling, rain, flood, or any exceptional accident has occurred thereto, or if the Sazedár, on the ground of such loss having occurred, prohibits such addition or removal, unless and until such heap has been inspected by the Sarkárkún or some officer deputed by him.

Salt not to be added to or removed from an incomplete heap in certain cases.

(9) No person shall at any time add any salt to, or cause or allow any salt to be added to, a heap after it has been once made and completed.

Salt not to be added to a complete heap.

Deposit of Salt.

(10) No person shall deposit or cause or allow to be deposited at any salt work in the Kánara District any salt within 200 yards of any kothár or building used or intended to be used for the storage of salt on which excise duty has not been paid excepting on ground allotted for the purpose by the Sarkárkún; and

Salt not to be deposited or allowed to remain near kothárs without permission.

any person depositing salt on any such ground shall be bound to at once remove it if so ordered by the Sarkárkún.

Removal of Salt.

(11) Except as is hereinafter in this rule otherwise provided, no one shall remove salt from a salt work otherwise than in bags legibly marked with consecutive numbers and with the initials or other distinguishing mark of the person on whose account the salt is removed: Provided that this rule shall not apply to removals of salt from Government salt works at Khárághoda to the stores or from the works at Sanikatta to the kothárs, or to salt removed under the special orders of the Collector or by Wanjáris.

Conservancy of Salt Works.

(12) No person shall commit a nuisance within the limits of any salt work.

Warehousing of Salt for Sale.

(13) Licenses, granted by the Collector under Section 37 of the Act for the storage or possession of salt for sale within any of the limits mentioned in Section 36 of the Act, shall be either for the wholesale or for the retail sale of salt and shall be in the form annexed to these rules and contain the conditions specified in the said form. The said conditions shall be deemed to be and shall have the same force as rules framed by the Governor in Council under Section 37 (1) of the Act.

(14) Every license shall be taken out not later than the 1st of January in each year and shall be in force until the 31st December next following and no longer.

(15) The Collector may cancel or refuse to renew a license without assigning any reasons therefor.

(16) If a licensee desires to open, for purposes of sale, more than one shop or warehouse, he must obtain a separate license for each such shop or warehouse.

(17) Every such license shall be liable to suspension or revocation, at any time, on breach, by the licensee or any of his servants, of any of the conditions thereof or of any provisions of the Act.

Disposal and destruction of things seized.

(18) Confiscated salt-earth shall be destroyed.

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(19) At any time after the seizure of goods under the Act, it shall be lawful for an officer not lower in rank than a Sarkárkún to direct that any such goods which appear to him to be subject to natural and speedy decay, shall be sold by public auction at once or, if unsaleable, that they shall be destroyed.

(20) Any officer of a class not lower in rank than Sarkárkúns or Inspectors may give the directions specified in Section 52 (b) in any case in which such directions may be given under the provisions thereof.

(21) The surplus proceeds of all sales under Rules 19 and 20 shall, unless the owner of the property sold establishes his claim to them within three months of the sale, be forfeited to Her Majesty.

Penalties.

(22) Whoever commits a breach of any of the Rules 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 or of any condition of a license granted in accordance with Rule 13, shall be punished with fine which may extend to rupees fifty, and in default of payment of fine, with simple imprisonment for a term which may extend to one month.

(23) Whoever commits a breach of Rule 12 shall be punished with fine which may extend to rupees twenty, and in default of payment of the fine, with simple imprisonment for a term which may extend to ten days.

Form of License for the Storage and Possession of the Salt (vide Rule 13.)

I, _____ Collector of Salt Revenue, do hereby authorize and empower _____ now dwelling at _____, in the taluka of _____, in the district of _____, to store or have in his possession salt for the purpose of sale in the below-mentioned building (or enclosure or premises as the case may be) situated in the village of _____ in the taluka of _____ in the district of _____ viz., in the building (enclosure or premises as the case may be) known as _____ and situated on the _____ side of _____ street and numbered No. _____ by the Municipality of _____ provided that he conform to the following conditions, viz. :

(1) That he keep and have ready for inspection at any time by any officer of the Salt Department, requiring to see the same, a detailed daily

account showing truly the quantities of salt received by him, the name of the persons from whom, and of the salt works at which such salt has been obtained, the No. and date of the permit covering the same and the names of the ports, if any, at which such salt is landed, as well as the names of the persons to whom he may sell salt and the quantity delivered to each.

(2) That he furnish on the first of every month to the Sarkarkun at _____ an abstract account in such form as may from time to time be required of him, showing the gross quantities of salt received and sold by him during the previous month and the balance in store at the end of the same.

(3) That he shall not sell more than 40 seers of 80 tolas each of salt to one and the same person, except on the production by such person of a special permit under Section 38 (2) of the Bombay Salt Act II of 1890, to retain more than that amount for his private consumption or to transport more than that amount to some place beyond the limits mentioned in Section 36 of Bombay Act II of 1890, or to some other licensed shop or warehouse within those limits, duly signed by myself, or my successor in office for the time being, or by one of my deputies or assistants.

(4) That he shall not transfer this license to any other person, nor permit salt to be sold under colour thereof by any other than himself or his servants duly approved for such purpose by the Sarkarkun at _____, a list of whose names he shall from time to time, as required, furnish to the said Sarkarkun.

(5) *(For retail licenses only.)*

That he shall at no time keep in store more than 50 Indian maunds of salt or such other quantity as I or my successor in office may by special order prescribe.

(For wholesale licenses only.)

That he shall store all the salt in his possession in bags, each containing not less than one or more than three maunds.

(6) This license shall be in force from the day of _____ 189 until the _____ day of _____ 189 and no longer, but shall be liable to be suspended or revoked at any time by myself, or one of my deputies, in the event of the infringement by the said _____, or by any of his servants, of any conditions thereof or of any of the provisions of the Bombay Salt Act, 1890.

Given under my hand and seal at
on the _____ day of _____ 189 .

Collector of Salt Revenue.

(G. N. No. 7890 dated 26th October 1893.)

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X.—SMUGGLING AND OTHER OFFENCES.

1. All Magistrates should bear in mind the repeatedly expressed opinion of Government that salt-smuggling is not a trivial offence to be lightly punished. Small punishments are only an incentive to break the law, besides endangering the revenue. (G. Rs. Nos. 262, dated 16th January 1875, and 6620, dated 7th November 1877.)

2. The prevention of salt-smuggling in all shapes forms part of the regular duties of the revenue and police establishments. (G. R. No. 7613, dated 26th December 1877.)

3. Attention has been attracted to the import into some provinces of untaxed foreign salt from trans-Himalayan sources. As yet the quantities imported have been insignificant, and there are no apparent probabilities of such development as to cause material injury to the revenue by the displacement of duty-paid salt. But it is desirable that the trade should be carefully watched, so that in case it displays a tendency to increase, measures for the protection of the revenue by the taxation of the imported salt may be timely adopted. All officers, therefore, concerned in the registration and record of the land trade should keep the import of salt specially in view, and make special reference to it in the Land Trade Reports of Sind. (G. I., R. A. & C., No. 8, dated 16th September 1878; *vide* G.R. No. 5061, dated 3rd October 1878.)

4. The following notification by the Political Agent, Káthiáwár, No. 44, dated 23rd December 1875 (*vide* Government Resolution, Political Department, No. 8210, dated 8th idem) shows the powers possessed by salt officers in Káthiáwár in regard to salt offences. The same powers were given to them, in regard to smuggling of opium, by Government Resolution, Political Department, No. 1591, dated 7th March 1891 (*vide* Revenue Department endorsement No. 2445, dated 8th April 1891):—

“It is hereby notified by order of the Governor in Council that all salt not duly covered by a permit, which shall be carried across the frontier line hereinafter described otherwise than by a route prescribed by the Governor in Council, and all salt spontaneously produced within and east of the said line which shall be removed without due permission, will from the date of this notice be contraband salt as defined in Bombay Act VII of 1873; and all persons concerned in passing, removing or transporting such salt, or accepting or retaining such salt, and all such salt and all vessels, animals, and conveyances used or intended to be used in transporting it, and all goods, packages and coverings in or among which it may be placed, will be liable to the penalties set forth in part VI of the said Act.

‘2. All salt stored within ten miles of the said frontier line in excess of the quantity *bond fide* required for local consumption, shall, from the date of this notice, be contraband and liable to confiscation, together with all goods, coverings and packages among or in which it may be placed.’

“ Definition of the salt frontier line south of the frontier of Rádhanpur.

“ From the Runn opposite Rádhanpur territory the line is to follow a course parallel to the coast of the Runn, and at a distance of 3 miles therefrom, until it reaches the cart track leading from Sultánpur to Uru ; from this point it will proceed straight to the westernmost masonry pillar of the Pátri-Bajána boundary ; thence it will run due east until it reaches the boundary of the Viramgám Táluka opposite the village of Goría, leaving on its north the village sites of Sáulás, Salla and Upariála in the Bajána Táluka : it will thence follow the boundary between British territory and Káthiáwár until, after encircling the Dhandhuka pargana, it reaches the Gulf of Cambay at the Sundrai creek.

“ The following rules of procedure have been approved by His Excellency the Governor in Council :—

“ I. For the maintenance of the Preventive Line in Káthiáwár the Chiefs should be required to admit posts of officers of the Salt Department into such villages and places as the Political Agent may appoint at the instance of the Collector of Salt Revenue, and to assist the salt officers to find accommodation in such villages and places in every reasonable way.

“ II. The officers of the Salt Department should be permitted to follow and apprehend smugglers in Káthiáwár, and to seize suspected salt and carriages, animals and trappings used in its conveyance, and the contents of any package in which it may be concealed. And it shall be the duty of the officers making such apprehensions and seizures to take the prisoners and property forthwith to the Inspector to whom they are immediately subordinate, who after such preliminary inquiry as may be necessary (to be in all cases completed within 24 hours) shall forward any prisoners who appear from the information obtained to have committed any offence punishable under this notification to the proper Court, and shall release any prisoners, the evidence or reasonable ground of suspicion against whom appears insufficient to justify their transmission to a Court, submitting a report of the case for the orders of his immediate superior. Persons who may have been released from arrest under this rule by Inspectors of the Salt Department shall be liable to re-arrest and trial on application being made to the Political Officer in charge of the pránt by the Assistant Collector of Salt Revenue in charge of the Preventive Line.

“ III. It shall be the duty of the States concerned to cause their officers to take part in the pursuit and seizure of smugglers, &c., to prevent the storage of salt in contravention of Rule VII and generally to assist the officers of the Salt Department. In the case of any seizure made by the Chief's officers apart from the officers of the Department, notice should be given to the head local officer of the Department to whom the salt and property seized should be made over, and opportunity should be given for such inquiry as may be necessary to ascertain whether the property seized is liable to confiscation.

“ IV. The Salt Department should prosecute all persons accused of smuggling before the Local Court of the Chief or Agency. An appeal to the Political Agent, if he has jurisdiction over the Local Court against the decision of the Court, whatever it may be, will be open both to the prosecutor and to the accused.

“ V. Questions of confiscation of smuggled salt, &c., will be determined by the Collector of Salt Revenue, subject to an appeal to Government.

“ VI. All fines levied, and the proceeds of all confiscations adjudged shall be at the disposal of the Governor in Council for the purpose mentioned in Section 61 of Bombay Act VII of 1873.

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"VII. Storing of salt in excess of quantities required for local consumption in villages within 10 miles of the Preventive Line is prohibited as in itself evidence of an intent to smuggle. Officers of the Salt Department may visit Káthiáwár villages for the purpose of ascertaining whether any contravention of this prohibition has taken place and will then be entitled to respect and assistance. Should it appear to an officer of the Salt Department of not lower rank than an Assistant Inspector that salt is so stored, the village pátel and all superior authorities in the State shall, on the request of such officer, be bound to make effectual search for such salt and to record the result of such search in a report written at the time and signed by all officials of the State who are present. If such salt is found, they shall detain it for adjudication by the Political Officer within whose charge the place where the salt is found may be, who shall, if he considers that the salt found is in excess of the quantity *bond fide* required for local consumption, pass an order for its summary confiscation, together with all goods, packages or coverings in or among which it may be placed."

5. In continuation of the foregoing Notification No. 44, dated 23rd December 1875, the following Notification No. 32, dated 15th July 1884, regarding the arrangements for the storage and distribution of salt in Káthiáwar along the British Frontier was published by the Political Agent, Káthiáwár, under the authority of Government, at page 194 of the *Káthiáwár Agency Gazette* for 1884:—

"1. Within the 10-mile belt referred to in para. 2 of Notification No. 44 of 1875, there shall only be maintained the depôts noted in the schedule attached.

"2. In the depôts, exclusive of such as are at salt sources or works, the quantity of salt stored is to be regulated by the population as ascertained by the last census of the villages supplied from it, the average consumption per head being calculated at 12 lbs.

"3. During the rainy season, *i.e.*, from 1st June to 1st October, salt sufficient for 4 months' consumption only may be stored in the salt depôts; at other seasons the amount stored is not to exceed what is sufficient for 2 months' consumption.

"4. As far as is found feasible, a licensed vendor shall be established in each village who is to obtain salt on permit from the depôt which supplies his village. Any licensed vendor obtaining salt from elsewhere to be liable to punishment in the spirit of Bombay Act VII of 1873. Where there is no licensed vendor, villages may be supplied by licensed hawkers according to the existing practice.

"5. Any person carrying salt for sale or for purposes other than personal consumption not covered by a permit shall be liable to punishment in the spirit of Section 51 of the Act above referred to.

"6. In all places where salt naturally forms, only so much as is required for *bond fide* consumption in Káthiáwár may be collected and stored. All salt in excess of this amount or not required for storage as being of inferior quality, to be destroyed.

"7. The responsibility of carrying out the above rules rests, in States enjoying recognized jurisdiction, on the Darbárs of those States, and in Thána circles on the Government officials in charge of that Thaná. All breaches of these rules to be punished in the spirit of the Bombay Salt Act.

"8. Any breach or neglect of these rules should be considered to be a breach or neglect of the provisions of Noti-

fication No. 44 of 1875 and action should be taken in such cases as prescribed in Article VII of the said Notification.

"Schedule.

"Bajāna, Vithalgad, Talsāna, Jāmbu, Ralol, Balol, Kamālpur, Nāgnes, Kārol, Limbdi, Chuda, Sudānra, Dhāndhalpur, Pāliyād."

XI.—REWARDS.

1. The following Rules for regulating the grant of rewards to informers and seizers of contraband salt in the Bombay Presidency are published for general information:—

(1).—The Collector of Salt Revenue when ordering the confiscation of any property under the authority vested in him by the Salt Act may grant, in such proportions as he may think fit, to any person or persons who have contributed to the seizure of the property or the conviction of the offender, a reward not exceeding Rupees 3 per maund of salt confiscated, *plus* the estimated value of any other articles confiscated in the case *plus* the amount of any fine imposed.

(2).—In any case in which, in the opinion of the Collector of Salt Revenue, any person has performed any service of special merit in respect of the prevention or detection of salt smuggling, or of any offence against the salt laws, the Collector may grant to such person a reward not exceeding in amount Rs. 50.

(3).—The Collector of Salt Revenue or an Assistant Collector of Salt Revenue with the sanction of the Collector may incur at his discretion, expenditure not exceeding Rs. 100 in each case for the employment of informers, or for other purposes connected with the prevention or detection of salt smuggling, or of any offence against the laws relating to Salt.

(G. N. No. 1658 dated 1st April 1878.)

2. The following Rules for the grant of rewards to persons giving information of offences against the provisions of the Inland Customs Act, 1875, apply to all branches of the Sind Salt Department and to all its servants of and below the rank of Inspector or Superintendent:—

(1) Rewards shall be payable only to the persons concerned in the transactions out of which they may arise. All persons, whether servants of Government of whatever Department or private individuals, shall be entitled to participate.

(2) There shall be five kinds of rewards, *viz.*:—

(1) Sale-proceeds of confiscated salt or saltpetre and of all the articles seized and confiscated along with them.

(2) Additional duty on salt levied as a penalty under Rule 32 of the Rules of the Governor General in Council, dated the 7th August 1878, or under any rules sanctioned by the Governor General in Council under Section 15 of the Inland Customs Act of 1875.

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(3) Halves of fines imposed by Magistrates whether with or without imprisonment.

(4) Special, in cases when the sentence passed does not include a fine.

(5) Special, not exceeding Rs. 100, for display of bravery and tact in effecting the seizure of smuggled goods or arresting offenders against the Inland Customs Act.

(3) Payments of the sum available for rewards shall be made in the following proportions, *viz*:

(a) To the informer or informers, if any, one-half the entire sum ;

(b) To the Inspector or Assistant Inspector or other officer of the Sind Salt Department in charge of the beat, if present at or actually co-operating in (although not present at the moment of) the seizure, one-fourth the entire sum.

(c) To other servants of Government of whatever Department, present at or actually co-operating in the seizure, the remainder in proportion to their salaries.

(d) If there is no informer, one-half shall be paid to the officer of the Sind Salt Department in charge of the beat, if he be either present at or actually co-operating in the seizure, and the other half to the other persons present at or actually co-operating in the seizure.

(e) If there is no informer, and the officer of the Sind Salt Department in charge of the beat is not entitled under clause (d), the whole sum disposable for reward shall be paid to the persons present at or actually co-operating in the seizure.

(f) Servants of Government in other than the Salt Department, or private individuals, who may seize persons or goods under the Inland Customs Act without the co-operation of officers or men of the Sind Salt Department, shall receive half the sum disposable for reward and the other half shall be credited to Government.

(4) Officers and men are said to be actually co-operating in a seizure when they belong to the party organized to make it, and are at the time of the seizure, although not present when it is effected, actively engaged in watching and patrolling other localities to prevent the escape of the smugglers or in passing from one detachment of the party to another to secure the vigilance of all.

(5) Officers or men of the Sind Salt Department simply taking over persons or goods seized by others cannot be held to merit a reward, and, as a general rule, they will receive no reward in such cases. An exception will be made if it be shown that any officers or men of the Sind Salt Department did anything (beyond merely taking over from the seizer the persons or goods seized) which contributed to bring about the seizure. In such a case a special report would be necessary.

(6) Whenever it may be ordered by competent authority that salt which is seized and confiscated is to be destroyed, the Commissioner may make a grant at Rs. 2-8-0 per maund of salt so destroyed to be distributed as rewards.

(7) Confiscated salt (fit for human consumption) or saltpetre or the carriage or other articles seized and confiscated along with the salt or saltpetre may be sold by public auction—the salt at a price not less than the Government duty, and the rest for what they will fetch; but the officer conducting the sale will be held personally responsible that sales are not effected at prices manifestly below the real local value of the articles sold.

(8) Confiscation proceeds and additional duty shall be held in deposit to admit of appeal to the Commissioner for one month after date of final orders awarding the penalty.

(9) Rewards accruing under Clauses 3 and 4 of Rule III shall be payable in the month following that in which the Magistrate's order intimating conviction of the smugglers is received.

(10) Rewards payable under Clause 4, Rule III, shall be at the rate of 8 annas for each day's imprisonment awarded to each offender. Provided always that such reward shall not exceed fifty rupees for any one prisoner or Rs. 200 for any one case.

(11) Payment of rewards to officers or men of the Sind Salt Department or to private individuals shall be made subject to the control of the Collector, or Deputy Collector of the District, when possible by the Deputy Collector in person, but otherwise through the Salt Inspector or Superintendent.

Sums payable to subordinates of other Departments shall be forwarded by the Collector to the Heads of such Departments.

The Collector or Superintendent of a District may withhold and credit to Government a part or the whole of the amount disposable for rewards in any instance in which a reward has not in his opinion been fairly earned. (G. R. No. 1085, dated 21st February 1881.)

3. The following rules for regulating the grant of rewards for the detection and prevention of offences against the Transport of Salt Act, 1879, in the Bombay Presidency including Sind are published for general information:—

(1) The authority adjudging a confiscation under Section 6 of the Transport of Salt Act shall have the power to grant, in such proportion as he may think fit, to any person or persons who may have contributed to the seizure of the property confiscated or the conviction of the party or parties offending, rewards not exceeding in the aggregate the estimated value of the property confiscated *plus* the amount of any fine imposed.

(2) In any case in which, in the opinion of the authority referred to in Rule 1, any person has performed any service of special merit in connexion with the prevention or detection of any offence under the Transport of Salt Act, he shall have power to grant to such person a reward not exceeding Rs. 50 (fifty) which may be in addition to or in lieu of any reward which may or might have been granted under Rule I.

(G. N. No. 5408A, dated 28th July 1886.)

XII.—ACCOUNTS.

1. The accounts of the Salt Department should be kept in Kánara in Maráthi instead of in Kánaresé. (G. R. No. 958, dated 21st February 1874.)

2. The following rules have been laid down for the guidance of Treasury Officers in receiving and accounting for cash paid into their Treasuries by salt traders on account of the Salt Department:—

(1) When it is desired that payments on account of the Salt Department should be received at any Government Treasury (Huzúr or District), application will be made by the Collector of Salt Revenue, or by the Assistant in charge of his Huzúr Office in Bombay, to the Collector of the district in which such Treasury may be situated, for the issue of general instructions to the Treasury Officer concerned to receive from traders and others any sums tendered by them on account of the Collector of Salt Revenue. After the issue of such instructions, but not otherwise, Treasury Officers will receive and account for any monies tendered to them for remittance or credit to the Collector of Salt Revenue.

(2) For any sum so paid the Treasury Officer will pass to the payer a receipt (in the accompanying Form A), and will simultaneously forward a copy thereof by post to the Assistant Collector of Salt Revenue in charge Head-quarter Office, Bombay. Printed forms will be supplied by the Collector of Salt Revenue on which alone receipts should be granted.

(3) The Treasury Officer will credit in his accounts the amounts received as remittances from the Collector of Salt Revenue; and the Huzúr Treasury Officer of the district will soon after the first of each month render a general receipt (in the accompanying Form B) for all sums paid into his own or subordinate Treasuries during the previous month. These receipts should be addressed to the Assistant Collector of Salt Revenue in charge Head-quarter Office, Bombay. The transactions will then be adjusted in the office of the Collector of Salt Revenue by debiting the amount to the Treasury Officer concerned and crediting it to the proper head of account.

(4) The payer on receiving the receipt referred to in Rule 2 will either personally or by agent present it to the Assistant Collector of Salt

Revenue in charge of the Head-quarter Office in Bombay, along with an application stating the purpose to which the payment is to be applied, *i.e.* whether for the supply of salt, or for the adjustment of a deposit account for salt previously supplied on the credit system.

(5) The Assistant Collector of Salt Revenue in charge Head-quarter Office, on production of such receipt and application, and after satisfying himself of the genuineness of the former, will grant the applicant the requisite receipt to enable him to obtain the salt applied for, or will adjust his deposit account, as the case may require.

FORM A.

A	B	C
No.	No.	No.
Name of Treasury Office and Date	Name of Treasury Office and Date	Name of Treasury Office and Date
Received from the sum of Rupees (in words) to the credit of the Collector of Salt Revenue, Bombay,	Received from the sum of Rupees (in words) to the credit of the Collector of Salt Revenue, Bombay.	Received from the sum of Rupees (in words) to the credit of the Collector of Salt Revenue, Bombay.
Rs. Signed A. B., Treasury Officer.	Rs. Signed A. B., Treasury Officer.	Rs. Signed A. B., Treasury Officer.

Note.—These receipts will be printed and bound in a book. A will remain in the book in the Treasury Office, B will be delivered to the payer, and C forwarded simultaneously to the Assistant Collector of Salt Revenue, in charge Head-quarter Office, Bombay.

Receipts will be supplied in different languages, English for Huzúr Treasuries, and vernacular for Mámlatdars' and other District Treasuries.

FORM B.

Treasury Office, and Date.

Received from the Collector of Salt Revenue, Bombay, through the undernamed persons, the sum of Rupees (in words) during the month of

No. of separate receipts.	Names of persons.	Amount.
1	A.	Rs. a. p.
2 and 4	B.	
3	C.	
5 and 6	D.	
Total Rs. ...		

Signed A. B.

Treasury Officer.

Note.—The sum entered opposite each name will be the aggregate amount received during the month from the persons named.

(G. R. No. 546, dated 29th January 1875.)

3. The receipt of money in payment of the duty on salt removed from the Bassein, Ghodbandar, Trombay, Panvel and Uran works for export by sea

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or for inland transport by rail will not be allowed at the Treasuries at those places, and such payments must be made at the Head-quarter Office at Bombay. Discretion should however be granted to the Sarkár-kúns at the places named to accept payment in exceptional cases and for very special reasons. (G. R. No. 2800, dated 1st June 1880.)

4. Salt and Customs expenditure of a kind which has to be, and is incurred every year, such as petty construction and repairs, supply of scales and weights, does not require special previous sanction before being entered in the estimates, unless the expenditure exceeds the average of the last three years, when the excess cannot be admitted without explanation. (G. I., F. & C., No. 5922, dated 30th October 1888; *vide* G. M. No. 7519, dated 12th November 1888.)

5. The Budget estimates of the Mounted Police Fund of the Salt Department should be submitted to Government in the Revenue Department in a complete form. (G. R. No. 1786, dated 15th March 1892.)

XIII.—MISCELLANEOUS.

1. *Tents*: The Collector of Salt Revenue is to be allowed a sum not exceeding Rs. 700 every sixth year for the purchase of office tents. The tent is to be bought only when absolutely necessary even after six years, and a certificate to this effect should be furnished at the time new tents are bought. (G. I., F. D., No. 611, dated 27th January 1873; *vide* G. R. No. 835, dated 13th February 1873.)

2. *Natural Salt*:—The Collector of Salt Revenue should exercise considerable liberality in the grant of permission to collect natural salt free of duty to foreign villages in the immediate proximity of natural salt deposits within the frontier line. The best method of effecting this object would be that which is understood to be already practised in some of the small States, north of Anwarpur. Each village to which the Collector grants the concession might be allowed to collect and remove, on a certain day, a certain number, according to its population, of cart-loads of salt under a written permit. (G. I. No. 6972, dated 11th December 1875.)

3. *Moach Salt*: All salt despatched from the Moach Salt Works by water should be laden into boats in the presence of an officer of the Salt Department. After a boat is laden, and before it is allowed to leave the creek, the contents should be inspected and the bags counted by the Superintendent, Moach Salt Works, who will also occasionally test a few bags.

On arrival of a boat-load of salt at the Keamari Wharf the bags should be counted by the Customs officer there and a percentage (say 5 per cent.) weighed. If correct, they should be laden into trucks; if not, the necessary report should be made to the Collector of Customs.

The Customs Inspector at Keamari should also be required to inspect salt landed at Keamari frequently

and to make an occasional test to see that no fraud is going on. (G. R. No. 5765, dated 28th October 1879.)

4. *Gradation Lists*: The Accountant General should submit to Government a monthly gradation list of officers in the Salt Department. (G. M. No. 3500, dated 7th July 1880.)

5. *Official Correspondence*. [Vide Order No. 1, Sub-head XI, under the head "Opium."]

* Repealed
by Act II
of 1890.

6. *Enquiries*: When an enquiry is held under Section 59 of the Salt Act,* 1873, regular proceedings in judicial form should be recorded. (G. R. No. 2211, dated 17th March 1883.)

7. *Titles*: Native officers employed in the Salt and Customs Department of the Bombay Presidency on a salary of Rs. 150 and upwards should be officially addressed as Ráo Sáheb or Khán Sáheb. (G. I., For. Dept., No. 165-I, dated 13th January 1885; vide G. R. No. 706, dated 24th idem.)

8. *Agencies*: No agency for the sale of salt on behalf of Government should be established at any place beyond the Presidency without the sanction of the Government of India. (G. I., F. & C., No. 6584, dated 11th December 1888; vide G. R. No. 8598, dated 22nd idem.)

9. In dealing with the question of the Government agencies for the sale of salt in future, the opinions expressed in the following extracts from the letter from the Government of India No. 4140, dated 4th August 1887, should be borne in mind, and the wishes of that Government should be carried out so far as may seem practicable and expedient:

"5. If the Government of Bombay should come to the conclusion that the agencies ought to be retained it will doubtless favour the Government of India with the grounds on which its opinion is based. The Governor General in Council desires in any case to urge on its consideration that the agencies, if they are to be retained, should be so worked that the condition shall approximate closely to those under which the operations of the ordinary trader are carried on. At present, a deduction of 5 per cent. on account of wastage is taken from the salt-makers for salt sold to Government in order to cover a wastage allowance made to the Agent, which allowance is refused to traders. This allowance, there is every reason to believe, is mainly a profit to the Agent; and the profit is really paid by the salt-makers and the traders. It is for the Government of Bombay to consider whether it would not be more equitable to take from the salt-maker only such an allowance for wastage as experience shows to be justified, and to make no allowance to the Agent which is not also granted to the trader. This would secure to the salt-maker a fair return for his work, and at the same time place the Government Agent on a nearly equal footing with the trader.

"6. Further, it would seem desirable that the Agent should be required, like an ordinary trader, to prepay the duty and the price of the salt he receives from Government and be left to recover his money from the consumer gradually as he reduces his stock by sales. He would still receive his commission, which would represent the profit of an ordinary trader working on his own account.

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"7. If therefore the Government of Bombay is inclined to think that the time has not arrived for dispensing with the agencies altogether, I am to request that the arrangements to be made with the Agent may be reconsidered in the sense stated in the foregoing paragraphs."

(G. R. No. 8588, dated 22nd December 1888.)*

10. *Fish-curing*: It is the desire of the Government of India to see fish-curing yards established, as in Madras, at all convenient places along the coast line, where there is a reasonable prospect of active resort to them by fish-curiers, and the Governor General in Council is not disposed to agree with the opinion on which the Collector of Salt Revenue based his rejection of an application to open a new yard at Málvan. It is possible that a yard at Málvan would draw off custom from Vengurla, but the abstraction of custom would prove that Málvan was a more suitable place for the industry. From this point of view it would have been better that the application should have been complied with; and if the result showed that custom fell off at Vengurla, the proper course would have been to reduce the staff at that place or to close the yard altogether.

The Government of India has also been always prepared to bear a small loss on the experimental establishment of fish-curing yards for the sake of preserving an important industry, which is heavily borne down by the salt-tax. The industry merits encouragement, and any small loss on one or two fish-curing yards should soon disappear with effective management and the extension of yards where the industry calls for them. In Madras the yards caused some loss for a time, but they now cost the State nothing.

At present the principal item of loss to Government in Bombay is on account of establishment charges, which are borne entirely by the State. It is not the desire of the Government of India that the local officers should aim at recovering the cost of establishment immediately, but irrespective of this item and the loss of duty on salt sold for fish-curing in the Vengurla yard the State at present bears the charges for freight on the salt to place of sale and wastage, which should obviously be taken into account in calculating the cost price of the salt. As this is not done, salt is now being sold for fish-curing purposes in Bombay at less than the cost price. The Government of India considers that the operations should be so conducted that there shall be no loss upon the purchase and resale of salt. (G. I., F. & C., No. 6271, dated 23rd November 1888; *vide* G. R. No. 8321, dated 13th December 1888.)

11. Fish-curing yards should be put up at every place where they are likely to be fully useful. (G. I., F. & C., No. 4150-Ex, dated 25th September 1893; *vide* G. R. No. 7389, dated 10th October 1893.)

12. *Reserve Stock*: As a matter of precaution it is desirable that a reserve stock of salt equal to two years' demand should usually be maintained at

* *Vide* also Order No. 4, Sub-head IV.

the Runn Salt Works. (G. R. No. 1948, dated 16th March 1891.)

13. Salt Price Current: The Collector of Salt Revenue, Bombay, is authorized to subscribe to a copy of Messrs. Mullick & Co.'s Weekly Salt Price Current published at Calcutta. (G. R. No. 7451, dated 28th October 1891.)

14. Calendars: Maráthi calendars may be purchased for the use of the Huzúr and Táluka offices in the Salt Department, the cost being met from the contingent grant of the purchasing officers. (G. R. No. 3686, dated 27th April 1892.)

15. Form of license for the collection or removal and possession of salt-earth under Section 11 of Act II of 1890:—

I, _____, Collector of Salt Revenue, do hereby authorize and empower _____ now dwelling at _____ in the táluka of _____ in the district of _____, to excavate, collect or remove salt-earth (1) for curing fish, (2) for manuring cocoanut palms from _____ and remove it to _____ on the following conditions:

- (1) That the salt-earth is not removed between sunset and sunrise;
- (2) That all salt-earth removed under this license shall be stored at _____ and at no other place;
- (3) That no part of the salt-earth removed under this license shall at any time be taken into any building, dwelling-house or covered enclosure;
- (4) That the salt-earth removed under this license shall be used for the purpose shown above, and no other;
- (5) This license will remain in force from the _____ to the _____

(G. R. No. 4826, dated 9th June 1892.)

SERVICE RULES.*

I.—APPOINTMENTS.

1. All applications with reference to appointments should be made to the Private Secretary to His Excellency the Governor, who takes the earliest opportunity of placing them before His Excellency. (G. Rs. Nos. 495, dated 26th January 1870, and 3085, dated 18th June 1878.)

2. As a general rule, all questions involving promotion or patronage should be first submitted through the Private Secretary to His Excellency the Governor.

The practice has always been for applicants to write direct to the Private Secretary, who if it is deemed necessary can call for reports as to the qualifications of the gentlemen applying for appointments or promotions, and this practice it seems unnecessary to depart from.

(G. Rs. Nos. 1754, dated 17th March 1877, 103, dated 8th January, and 3370, dated 4th July 1878.)

3. It is no part of the duty of the head of a department to comment with freedom on the principles which actuate His Excellency the Governor in Council in making appointments. (G. R. No. 3863, dated 4th July 1881.)

4. The Commissioner in Sind should in all cases in which he has to recommend for an appointment submit his recommendation unofficially to His Excellency the Governor. (G. R. No. 7511, dated 23rd September 1892.)

5. Applications for appointments in the gift of the several Governments and Administrations in India should be preferred, not to the Secretary of State, but to the Government or Administration concerned. (G. R. No. 8139, dated 6th December 1888.)

6. The Accountant General should furnish to Government on the morning of every Friday a list of vacancies, permanent or temporary, in the appointments of Covenanted and Uncovenanted Civil Servants in the Revenue Department. (G. Ms. Nos. 958, 1062 and 16-P., dated, respectively, 6th and 14th March 1865, and 15th July 1867.)

7. The Accountant General should submit monthly a gradation list of officers holding Revenue appointments in Sind for the approval of Government, but it is not necessary to have the list printed and distributed. (G. R. No. 1331, dated 10th February 1893.)

8. When exceptional appointments of Europeans are proposed or reported under the terms of

* See also "Public Officers" and "Revenue Officers and Servants."

Lord Cranbrook's Despatch * No. 7, dated 10th July 1879, the grounds on which it is held inexpedient to appoint natives of India should be clearly stated. (S. of S. No. 3, Rev., dated 18th February 1892; *vide* G. R. No. 3957, dated 6th May 1892.)

9. Under paragraph † 4 of the Secretary of State's Despatch No. 85, Public, dated 31st August 1892, the sanction of the Government of India, instead of that of the Secretary of State, will in future be sufficient for the appointment of Europeans who are not statutory natives of India to offices carrying a salary of Rs. 200 a month and upwards. (G. I., H. D., No. 2195, dated 10th November 1892; ‡ *vide* G. R. No. 9499, dated 3rd December 1892.)

10. An officer on leave may proceed at once to take up a new appointment without rejoining the old one. (G. R. No. 960, dated 7th March 1867.)

11. All officers, on receipt of the Government orders of their appointments to other stations, must join their new appointments within the allotted time, and when they receive intimation to do so without delay, they are at once to start. The object of this order was to put a stop to the practice of Collectors taking upon themselves to

* I forward herewith, for your information and guidance, a copy of a Circular (Home Department, No. 21-746-53, dated 18th April 1879), which has been issued by the Government of India to the Governments and Administrations of the Bengal Presidency, containing instructions on the subject of appointing natives of India to an increasing majority of higher offices in the Uncovenanted Service, and of reserving the offices to which it is not desirable to appoint natives of India, as far as is practicable, for Covenanted Civil Servants, Officers of the Staff Corps, or persons appointed by the Home Government.

“2. I request that the principles laid down in this circular may be applied also in the Bombay Presidency, and that with the exceptions therein contained, no person, other than a native of India, may in future be appointed to an office drawing a salary of Rs. 200 a month or upwards unless the sanction of the Secretary of State in Council to such appointment shall have been previously obtained.”

(S. of S.'s Despatch to the Government of Bombay, No. 7, Public, dated 10th July 1879.)

† “I observe that in your letters to the various Local Governments your Excellency in Council has repeated the provisions of the orders of 1879, in the form that Europeans who are not natives of India may be recruited into the Provincial Civil Service on complying with certain conditions, with the sanction of the Secretary of State as regards Madras and Bombay, and of the Government of India as regards the other provinces. I am of opinion that it will be sufficient in future and more convenient that the sanction of the Government of India only should be obtained in all Presidencies and Provinces alike.” (Para. 4 of Secretary of State's Despatch No. 85, Public, dated 31st August 1892.)

‡ These orders came into force with effect from 10th November 1892, the date on which they were communicated and were intended to be of general application to all cases in which, under the orders of 1879, (Secretary of State's Despatch No. 7, dated 10th July 1879, and Government of India's Circular No. 21-746-753, dated 18th April 1879), previous sanction is required to the appointment of Europeans to posts carrying pay of Rs. 200 and over: (*vide* G. R., F. D., No. 1051, dated 20th March 1894.)

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judge whether an Assistant could or could not be conveniently spared. Heads of offices will be held responsible for arranging that their Assistants are relieved without delay. (G. C. No. 3127, dated 31st May 1873, and G. R. No. 3737, dated 1st July 1873.)

12. The Secretary of State for India leaves it to the Government of India to decide, when re-engaging persons on completion of service under contract, whether such period of service should be allowed to reckon towards privileges under the Uncovenanted Service Leave and Pension Rules, the terms of re-engagement being regulated by that Government accordingly. (S. of S. No. 388, dated 30th November 1870; *vide* G. R., F. D., No. 202, dated 7th February 1871.)*

13. As a rule when the head of a department is absent for a short time on privilege leave, it is held desirable to allow the duties to be performed by the officer holding the next subordinate post in the office. (G. L. to Mr. J. W. Robertson, Collector of Thána, No. 5727, dated 16th October 1873.)

14. When the services of an officer holding a gazetted appointment in one department are applied for in another, the sanction of Government should be obtained, and the condition of the transfer including the question of the retention of a lien on the substantive appointment, the term for which the services are to be transferred and the salary and allowances to be paid, can then be determined by Government. (G. R. No. 2000, dated 29th March 1876.)

15. Transfers of subordinates should be always made after due consideration, as it is inexpedient to involve lowly paid officers in debt by frequently changing their appointments. (G. R. No. 2707, dated 4th May 1876.)

16. No one should be admitted to Government service unless he has been vaccinated, and the fact of vaccination having been performed should be stated in the certificate of physical fitness. This rule, however, is not intended to apply to hereditary officers. (G. Rs. Nos. 4935, dated 14th August 1877, and 5609, dated 14th September 1877, and G. R., G. D., No. 3299, dated 20th November 1877.)

17. The medical certificate prescribed in Article 60 of the Civil Service Regulations is not necessary on the re-employment of an officer who was brought under reduction and received a compensation pension or gratuity, but it is necessary in the case of the re-employment of an officer who has regained health after obtaining an invalid pension. (G. I. No. 1216, dated 20th May 1882; *vide* G. R., F. D., No. 2120, dated 9th June 1882.)

18. The medical examination of candidates for Government service should ordinarily be restricted

* *Vide* also Article 384 (e), Civil Service Regulations.

to the vital organs. A medical officer should not, without some very special reason, inspect parts of the body which it is indecent to expose. He can always in a suspicious case insist on a minute examination. (G. I., F. & C., Nos. 793, dated 7th June 1873, and 4383, dated 30th November 1886; *vide* G. Rs., F. D., Nos. 2484, dated 27th June 1873, and 3786, dated 14th December 1886.)

19. All officers of the Staff Corps, Local Service and General Lists, who may be appointed to any Civil Department should be informed that they will hold their appointments subject to any change in their position as Military officers which may hereafter be decided on. (G. I., M. D., No. 69-A., dated 10th January 1880; *vide* G. R., M. D., No. 336 dated 21st *idem*; G. R. No. 437, dated 26th *idem*.)

20. The sanction of the Government of India is necessary to the creation of an additional appointment in an already existing class of appointments, such as Assistant Surgeons, the pay of which ultimately rises above Rs. 250 a month by periodical increments on the completion of definite periods of service, coupled or not with passing certain examinations. (G. I., F. & C., No. 2077, dated 22nd December 1881; *vide* G. R., F. D., No. 89, dated 7th January 1882.)

21. Applications for the renewal of the sanction given to temporary appointments which require a reference to Her Majesty's Government should be made to the Government of India in sufficient time to admit of their consideration by the Government of India and report to Her Majesty's Government before the termination of the sanction renewal of which is required. (G. I., F. & C., No. 1326, dated 19th March 1886; *vide* G. R., F. D., No. 949, dated 2nd April 1886.)

22. The Government of India in sanctioning the appointment of Railway Magistrate, Bhavnagar-Gondal-Junágad-Porbandar Railway, on a pay of Rs. 300 per mensem explained that as the cost of the appointment, inclusive of pension contribution, was recovered from the States concerned, Article 92 of the Civil Service Regulations did not apply, and the sanction of the Secretary of State to the arrangement was unnecessary, and observed that the case should, however, be reported home in the quarterly foreign service returns. (G. R., P. D., No. 7673, dated 20th November 1889.)

23. The sanction of the Government of India to the creation of an appointment, the holder of which is paid entirely from a Local Fund not administered by the Government, is not necessary. (G. I., F. & C., No. 2853, dated 12th June 1890; *vide* G. R. No. 4557, dated 30th *idem*.)

24. When promotions are notified in graded appointments, the intention of Government that effect should be given to any particular promotion from the date from which a vacancy existed in that

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particular grade should be distinctly stated in the notification. (G. R., F. D., No. 833, dated 6th February 1882.)

25. In the Resolution No. 33-1343-1354 of the 7th September 1882, the Government of India intimated to Local Governments the result of the reference made to them a year previously as to the practical working of the rule under which officers absent on furlough retain a lien on their appointments. It was stated that the Governor General in Council had found no sufficient reason for the withdrawal of that concession, but that at the same time there could be no doubt that in some provinces changes among the administrative, and especially among the district, staff had been more frequent than was at all desirable; and it was said that something should be done to check this tendency where it existed, partly by amendment of the rules in some points of minor detail, and partly by the adoption in all Local Administrations of a settled line of policy in working the rules. Much could, it was believed, be done by making proper arrangements for regulating the posting of officers on their return from furlough; and the general principle by which the Government of India desired that Local Governments should be guided in this matter was that private and personal considerations should always give way to public interests; and that every endeavour should be made to avoid unnecessary disturbance of existing arrangements. In these views of the Government of India the Secretary of State has intimated his general concurrence, remarking that, while it is undesirable to lay down any general rule as to the length of time during which an officer should remain in one district, or as to the considerations which should guide the several Governments in posting officers on their return from furlough, the arrangements of Government must always be regulated with reference to the requirements of the public service at the time. Local Governments will in future see that full effect is given to these instructions of Her Majesty's Secretary of State. It was not the intention of the Government of India in the Resolution of September last to lay down any hard-and-fast rule as to the maximum term during which an officer should be retained in a district. Local Governments must of course be guided in deciding such matters by a consideration of what is best for the public interests, but it should not be forgotten that, while frequent changes are bad, an officer may yet be left too long in a district, and that it may sometimes be best both for himself and for the district administration to make a change. (G. I., F. & C., No. 24-883-96, dated 6th July 1883; *vide* G. R., F. D., No. 2722, dated 26th *idem*.)

26. Substantive *pro-tem.* appointments cannot be made in filling up the vacancies caused by the absence of an officer from his permanent appointment on deputation to perform certain special

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temporary duties. (G. L., F. & C., No. 350, dated 19th April 1884; *vide* G. R. No. 3846, dated 15th May 1884.)

* *Vide* Article
288, Civil
Account
Code.

27. In conformity with the provision of Section 63 of Act XV of 1879 (Rangoon Port Commissioners Act), the grant of a personal allowance of Rs. 70 a month to Mr. David, who was appointed to act as Senior Harbour Master, was proposed by the Port Commissioners and sanctioned by the Chief Commissioner. The Comptroller having pointed out that under the ruling* contained in the Resolution of the Government of India, No. 672, dated 5th May 1883, the proposal of the Port Commissioner required the sanction of that Government, the matter was referred to that Government, who thereupon passed the following orders in their letter No. 1494, dated 31st March 1885:—

“I am directed to state that no reference to the Government of India is necessary in the case of appointments the salaries of which are chargeable to the revenues of the Port Trust, unless the Chief Commissioner alters the pay fixed by the Port Commissioners in regard to appointments the pay of which thus altered is high enough to require, under the rules applying to the general revenues, a reference to the Government of India or to the Secretary of State as the case may be.”

(G. R., F. D., 1213, dated 27th April 1885.)

28. When an officer is allowed to go to England on duty, the circumstances should be reported simultaneously with or before his departure. (S. of S. No. 6, dated 5th March 1885; *vide* G. R., F. D., No. 1475, dated 19th May 1885.)

29. A clerk nominated to a particular appointment should be required to work in that department. (G. R., F. D., No. 3723, dated 8th December 1886.)

30. No head of an office should employ, either temporarily or permanently, an officer belonging to another establishment without the previous consent of the officer on whose establishment he is at the time borne. In cases in which, for reasons which may appear satisfactory to the new employer, such consent cannot be obtained before the officer joins his new appointment, his employment may be made conditional on consent being obtained in due course.

It shall be incumbent upon an officer employed under Government, whether on leave or not, before *accepting* other employment, either to resign his previous appointment, or to obtain the consent of his departmental superior to his accepting such employment. If such consent is not obtained, either previously or, when this is not possible, in due course, the officer renders himself liable to be discharged from his previous appointment, and thus to lose the benefit of his previous service for pension.

There is nothing in these rules to prevent an officer on one establishment seeking employment on

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another. But an officer is not placed under any disability by resigning one appointment to take up another; and it must be held to be a breach of discipline if an officer actually transfers his service to a new employer without first obtaining the consent of his old employer or definitely resigning his old employment.

(G. I., F. & C., No. 546, dated 31st January 1888; vide G. R., F. D., No. 491, dated 17th February 1888.)

31. In cases where an officer is promoted in the room of an officer specified by name in the order of promotion, the promotion should take effect from the date when the specified officer vacated the appointment. (G. R., F. D., No. 2604, dated 18th August 1888.)

32. The tenure of office of an officer appointed to an Under Secretaryship to Government shall be for three years only. Government, however, reserves to itself the power to renew the term of office of an Under Secretary to Government on the expiration of the first term for which such officer was appointed, should such a renewal be deemed for special reasons desirable in the public interest.

In cases where an officer is in the first instance appointed to act as Under Secretary to Government, or to be substantive *pro tem.* in such appointment, and is subsequently confirmed in such appointment without having intermediately served in any other appointment, the period during which he officiated or was substantive *pro tem.* in the appointment shall be treated as forming portion of the period of his three years' tenure of the office.

All leave taken by an officer when serving as Under Secretary to Government shall be regarded as counting in his three years' tenure of office.

(G. Rs. Nos. 9377, dated 12th December 1889, and 8903, dated 5th June 1890.)

33. The appended form should be adopted as a standard form to be used by the heads of departments for the purpose of communicating to officers whose salaries are personal advice of their appointments. No other form should be used by Collectors or Commissioners in cases, if any, in which they may communicate appointments direct to their recipients. The Accountant General is authorized to accept the advice contained in this form, when received in respect of Registration appointments, as sufficient authority for passing the salaries of officers appointed by the Registrars or Inspector-General of Registration to posts, temporary or permanent, in anticipation of the notifications in the *Government Gazette*, with which these advices should be subsequently compared:—

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No. _____ Date _____

Mr. _____ (a) _____
 is appointed (b) _____ by (h) _____
 in consequence of (c) _____ of Mr. (d) _____,
 (e) _____ The
 appointment will take effect from (f) _____ and
 Mr. _____ is posted to do duty at (g) _____

Signature and Designation.

(a) Designation of Office from which transferred.

(b) Designation of Office to which appointed.

(c) Death, retirement, deputation, suspension, leave (sick, privilege or extraordinary with or without pay).

(d) Name of officer whose absence causes vacancy.

(e) Designation of officer whose absence causes vacancy.

(f) Date of notification or date of appointment vacated or date of taking over charge.

(g) Station to which posted.

(h) Designation of officer authorized to make appointments.

(On the reverse of the above form.)

Charge Report.

(To be filled in by the Controlling Officer, if necessary).

Certified that the charge of _____ was
 completely made over by _____
 to _____ on _____
 189 ^{before}/_{after} noon.

Relieving Officer.

Relieved Officer.

No. _____ Date _____

Mr. _____ (a) _____
 is appointed (b) _____ by (h) _____
 in consequence of (c) _____ of Mr. (d) _____,
 (e) _____ The appointment
 will take effect from (f) _____ and Mr. _____
 _____ is posted to do duty at (g) _____

On receipt of this authority with the charge report printed on the reverse duly filled in, the

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Accountant General will issue a slip showing the salary and allowances attaching to the post.

In the event of charge having been received before receipt of this authority, the charge report should be attached to this authority and both forwarded to the Accountant General.

The Accountant General will disregard any claims put forward in respect to this appointment till he receives this document.

Signature and Designation.

To

Through

(On the reverse of the above second form.)

Charge Report.

Certified that the charge of _____
was completely made over by _____
to _____ on _____
189 ^{before} noon .
_{after}

Relieving Officer.

Relieved Officer.

Forwarded to the Accountant General, Bombay, through*

(G. R., G. D., No. 2025, dated 12th June 1890.)

34. The appointment of Principal of Rájkumár College at Rájkot should be regarded as a Government post only in respect of a permanent incumbent or of an officiating officer who is himself in the service of Government. (G. I., For. D., No. 1395-G., dated 16th August 1893; *vide* G. R., P. D., No. 5342, dated 5th September 1893.)

* Designation of Head of Office.

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II.—DISMISSALS.

1. Her Majesty's Secretary of State has observed that if there be any reason to suppose that the orders * of the late Court of Directors, No. 42, dated 16th August 1851, are not sufficiently borne in mind, they should be republished. His Excellency in

* " We are informed by your letter, dated the 7th February last, No. 9, that upon a representation from the Lieutenant Governor of the North-West Provinces, enclosing communications from the Sadar Court and the Sadar Board of Revenue, you have suspended the carrying out of the instructions contained in paragraph 19 of our Despatch in this department, dated the 10th July 1850, to the effect that uncovenanted servants who have been dismissed from one department of the Public Service shall not be re-employed in another department.

* * * * *

"6. We would establish it as a principle, that when persons are appointed to permanent situations in any department they should not be dismissed upon light grounds. Fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace meet with their appropriate punishment in dismissal; and our position is, that in every case in which that punishment is inflicted upon just grounds, the individual should be considered to be permanently excluded from Government employ. With regard, however, to the instances of arbitrary dismissal for slight reasons adverted to by the Secretary to the Board of Revenue, we can neither recognise their propriety, nor see the advantage accruing to Government from the practice. It may be doubtful whether the punishment of temporary suspension, under the name of dismissal 'with the intention of re-appointment,' has any beneficial operation as regards the supposed offender. But we cannot doubt that it must tend to impede the business of the office, by raising fears in the minds of the other native officials that the caprice of their superiors may inflict upon them the same penalty. We consider it more likely that Government will be well served if it is distinctly understood that probity and diligence are the conditions of continued employment, than if the subordinates work in slavish dread of their official superior, knowing that his whim, prejudice or passion may at any hour eject them from their situations, and reduce them to destitution. In our opinion, moreover, the knowledge that gross misconduct will altogether exclude from the service of Government will operate as an additional inducement to the honest and attentive discharge of duty on the part of native servants. If the offence which a subordinate may commit be considered by the chief of his office to merit severe punishment, though not the ultimate one of dismissal, the circumstances should be reported to higher authority, and if necessary, to the Government for their judgment and decision.

"7. The salutary tendency of the proposed rule will, therefore, be to make subordinates more faithful in the discharge of their duties, and superiors more cautious in inflicting punishment upon those under their control; necessary as it is that the power of dismissal should be vested in the chiefs of departments, it is equally desirable to check, and as far as may be practicable to regulate that power.

"8. There is, however, a class of cases which does not come within the intention of our order, we mean cases of inaptitude for the particular branch of occupation to which a native servant may have been originally appointed; as well as cases of physical incapacity. The latter must be treated according to rule; and with regard to the former, we cannot but think that in the majority of cases the difficulty might be overcome by a re-adjustment of duties, without recourse to the harsh step of removal from office.

"9. We would, in conclusion, express our hope, that the notice we have taken of this subject will have the beneficial effect of inducing the exercise of greater forbearance, and a more just consideration on the part of our Civil Servants towards the useful and deserving class of men placed in subordination to them. * * * Should any instances unfortunately occur to

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Council has no reason to believe that the orders referred to are disregarded. On the contrary it may be alleged that they are in full force. (G. R. No. 1525, dated 24th April 1860.)

2. The Commissioners should, in all recommendations for dismissals or punishments, give the accused the opportunity of explaining his conduct, so as to deprive him of the plea that he has been condemned without a hearing. (G. R. No. 5012, dated 1st October 1878.)

3. In all cases in which public servants are charged with misconduct, the proceedings should be conducted with formality, so that when an appeal comes before Government the officer who has been dismissed should not be able to say or insinuate that his defence has not been heard. (G. R. No. 5711, dated 30th September 1881.)

4. Notifications regarding the dismissals of employes in the service of Government should not be published in the *Bombay Government Gazette* by the Superintendent, Government Central Press unless they are forwarded for publication by an order of Government. (G. R. No. 4018, dated 5th June 1886.)

disappoint the expectation which we have expressed that greater forbearance and justice will be exercised towards the native servants, we desire to be invariably informed of them * * * and we shall feel it to be our duty to visit such conduct with the expression of our severe displeasure."

(Extract from the Despatch from the Court of Directors to the Government of India, No. 42, (Finl. Dept.), dated 6th August 1851.)

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III.—TITLES.

1. The Government of Bombay directed in 1869 that the Second Class Subordinate Judges in this Presidency should be officially addressed as Ráo Sáheb or Khán Sáheb, as the case might be, since on the reorganization of the Subordinate Judicial Department their position was considerably improved, and the First Class Subordinate Judges, who were the old Principal Sadar Amins, enjoyed the title of Ráo Bahádur, having done so since the year 1834.

Subsequently, on questions arising as to the relative rank of native Revenue officers, it was determined in Government Resolution, General Department, No. 1530, dated 1st May 1873, that Mámlatdárs and Inspectors of Police should be officially addressed as Ráo Sáheb and Khán Sáheb, Daftardárs and native Deputy Collectors having been styled Ráo and Khán Bahádur since the years 1844 and 1852 respectively. The same official designations as had been given to Mámlatdárs were also since granted to Head Accountants, Deputy Educational Inspectors, and Inspectors of Registration, and that of Ráo and Khán Bahádur was, with the permission of the Government of India (*vide* their letter No. 1502-G, dated the 10th July last) given to Extra Assistant and Native Deputy Collectors in Sind.

The proceedings of the Bombay Government regarding the grant of honorary titles to native officials in the Bombay Presidency were confirmed by the Government of India in their letter No. 2307-G., dated 29th October 1873 (Foreign Department), in which it was observed that purely official titles should cease with office unless continued in special cases by express order of the Governor General in Council for exceptional merit and as a personal distinction.

(G. R. No. 6201, dated 11th November 1873.)

2. The title of Azám should not be shown in the periodical returns of title-holders.

The use of the word "Azám" does not imply that the person addressed has such a title *ex-officio*; the term may be used, as it is now very generally used, as the equivalent of the English 'Mr.', and should not be formally conferred *ex-officio* or otherwise on any individual or class of officers.

No order conferring or recognizing any title whatever should be issued except from the Political Department.

(G. R., F. D., No. 1983, dated 28th July 1887.)

I.—REPORTS AND RETURNS.

1. The Stamp Revenue Administration Report of the Bombay Presidency should be forwarded to the Government of India as soon as possible after the expiration of the year to which it appertains. (G. I., F. D., No. 421, dated 22nd January 1876; *vide* G. R. No. 747, dated 3rd February 1876.)

2. The Superintendent of Stamps should submit his report on the Administration of the Stamp Department in future triennially, statistical tables with brief notes being submitted by him in the intermediate years. (G. R. No. 7691, dated 10th November 1887.)

3. The Report of the Inspector General of Registration and Stamps on the stamp inspection work performed by the officers of the Registration Department should be submitted to Government triennially through the Superintendent of Stamps. (G. Rs. Nos. 2186, dated 13th April 1875, and 1307, dated 24th February 1888.)

4. The statistics of Revenue and Charges on account of stamps required for incorporation in Part III of the Finance and Revenue Accounts and miscellaneous statistics relating to the finances of British India should be furnished by the Accountant General, as soon after the close of the year to which they relate as possible, in the following forms:—

Account No.

Total Receipts and Charges on account of stamps for from :—

Year.	RECEIPTS.			CHARGES.				Net Receipts.	Cost of general supervision.
	Judicial Stamps.	Non-judicial stamps.	Total.	Discount and Establishment for sale of Stamps.	Refunds.	Other-Charges.	Total.		

* Exclusive of the cost of general supervision.

Account No.

Details of Receipts and Charges under Judicial Stamps for from :—

Year.	RECEIPTS.					CHARGES.			Total.
	From sale of Court-fee Stamps.	From sale of Stamps for copies.	From sale of plain paper used with labels.	Miscellaneous Receipts.	Total.	Discount and Establishment for sale of Stamps.	Refunds.	Other-Charges.	

† Exclusive of the cost of general supervision.

Account No.

Details of Receipts and Charges under Non-Judicial Stamps for from :—

Year.	RECEIPTS.								CHARGES.			
	Im-pressed Stamps.	Im-pressed Labels.	Handls or Inland Bills of Exchange.	One-anna Receipt Stamps.	Foreign Bills.	Other Stamps.	Miscellaneous Receipts.	Total.	Discount and Establishment for sale of Stamps.	Re-funds.	Other Charges.	Total.

* Exclusive of the cost of general supervision.

Account No.

Details of Charges under Stamps not shown in the preceding tables :—

Year.	Pay of Superintendent.	Establishment.	Contingencies.	Service Postage Stamps.	Total.

(2) In the first form all sorts of receipts and charges (except cost of general supervision) including fines and penalties under the Stamp and Court Fees Acts should be shown in the respective columns provided for them. The columns under charges may be filled up with the most reliable materials.

(3) As the system of levying copying fees by means of stamps has not been introduced in Bombay, the column "From sale of stamps for copies" will necessarily remain blank.

(4) The total of charges under stamps not included in the first three forms is to be given in the last money column of the first form. (G. I., F. & C., Nos. 929, dated 17th May 1883, 354, dated 18th January 1884, and 255, dated 18th January 1888; vide G. Rs. Nos. 2302, dated 17th March 1884, 820, dated 6th February 1888, and 6335, dated 6th September 1890.)

II.—POWERS OF OFFICERS.

1. In exercise of the power conferred by Section 3, clause 7 of the Indian Stamp Act, 1879, His Excellency the Governor in Council is pleased to appoint the Superintendent of Stamps, Bombay, to be the Chief Controlling Revenue Authority for the purposes of that Act within the limits of the Town of Bombay. (G. N. No. 1766, dated 2nd April 1879.)

2. The Superintendent of Stamps is authorized to write off to profit and loss the value of postage, receipt and bill stamps, destroyed or damaged, up to Rs. 100. (G. Rs. Nos. 1613, dated 27th April 1864, and 1732, dated 1st May 1868.)

3. He is also authorized to write off the value of stamped papers and other adhesive stamps, damaged or destroyed, to the extent of Rs. 100. Above that amount the consent of Government must be obtained. (G. R. No. 127, dated 9th January 1879.)

4. He is permitted to make such budget provision as is estimated to be necessary to meet the cost of punches required for supply to officers. (G. R. No. 474, dated 17th January 1893.)

5. The First Assistant to the Political Resident, Aden, the Assistant Superintendent of Stamps, Bombay, and, in the absence of the latter, the officer next to him, are authorized to perform the duty prescribed by Rule 11 (b) of the rules laid down in the notification of the Government of India No. 2170, dated 22nd May 1891, (Government Notification No. 3626,* dated 27th idem.) (G. Rs. Nos. 3326, dated 23rd May 1883, and 4041, dated 20th June 1883.)

* Printed at pp. 314 et seq. of the Compilation of General Rules.

6. The impounding of an instrument is an important step to take, and an officer should exercise the power of impounding only when it is clear to himself that the instrument is not duly stamped. If he is not quite sure as to the proper amount chargeable, he ought not to impound, but refer the question. (L. R. No. 1425, dated 1st December 1881; *vide* G. R. No. 7650, dated 17th idem.)

7. The Stamp Act does not contain any provision for an appeal from the Commissioner's decision passed under Section 45 of the Act, but the Commissioner can, if he sees fit, refer the case to the High Court instead of passing a decision himself. (L. R. No. 1425, dated 1st December 1881; *vide* G. R. No. 7650, dated 17th idem.)

III.—SUPERVISION AND INSPECTION.

1. All officers are to understand that loss of stamp revenue, which can be traced to the want of supervision on the part of any officer, will result in his being held responsible for such loss. (G. R. No. 2122, dated 3rd April 1877.)

2. The attention of all officers who are charged with the supervision of the stamp revenue is particularly directed to the necessity of using the utmost vigilance to see that the provisions of the Stamp Act are fully and invariably carried out. (G. R. No. 5725, dated 20th September 1877.)

3. While the income from court-fee stamps is not so much under the control of the Revenue Officers, the income from general stamps is much more under their control, for if they are vigilant then the law is but little evaded and the income rises: if they are not vigilant, then there is much evasion and the income falls. The Governor in Council is confident that this consideration will be an incentive to vigilance and strictness on the part of all the Revenue Officers concerned. (G. R. No. 4357, dated 27th August 1878.)

4. The true preventive of frauds in the matter of court-fee stamps rests in careful and constant supervision by heads of offices. Any carelessness or perfunctory performance of this very important duty will be seriously noticed by Government. (G. R. No. 3719, dated 24th July 1878.)

5. The attention of presiding officers of each Court or office is to be drawn to Section 33 of the Indian Stamp Act, 1879, with a view to strict observance of its provisions. (G. I., F. & C., No. 3265, dated 15th October 1880; *vide* G. R. No. 6103, dated 18th November 1880.)

6. His Excellency the Governor in Council is pleased to appoint the Inspector General of Registration and the Inspectors under him to the duty of supervising the stamp revenue administration beyond the limits of the Town and Island of Bombay. The designation of these officers will for the future be respectively Inspector General of Registration and Stamps and Inspectors of Registration and Stamps.

The following rules are laid down for their guidance in the performance of these additional duties:—

(1) The Inspector General of Registration and Stamps shall visit the various Huzúr Treasuries and examine the stocks of stamps to see that they are correct in amount as per the stamp accounts, that the latter are kept according to the prescribed form, that proper accommodation is provided for the safe custody of the stamps, and that the supply is sufficient for the wants of the public. Any remarks the Inspector General may have to offer on the above points he shall communicate to the Collector concerned.

(2) The Inspectors of Registration Offices and Stamps shall in the same way visit and examine the stocks of stamps and stamp accounts at the various Mámlatdárs' and Mahálkaris' Treasuries in their respective divisions. Any remarks which the Inspectors may have to offer on matters noticed by them at their examinations shall be forwarded by them to the Inspector General, who, if it appears necessary, will bring the matter to the notice of the Collector concerned.

(3) The Inspector General shall report to the Superintendent of Stamps, with his opinion thereon, any cases coming to his knowledge under the Stamp Laws which appear to have been decided by one authority in one way and by another authority in another way. The Superintendent of Stamps shall submit these cases to Government for final orders.

(4) The Inspectors shall report to the Inspector General any cases coming to their knowledge under the Stamp Laws which appear to have been decided by one authority in one way and by another authority in another way. The Inspector General shall submit these cases, with his opinion, to the Superintendent of Stamps, to be dealt with as laid down in the preceding rule.

(5) Any complaints made by the public regarding the paucity of stamp vendors in any of the districts, and made either personally to the Inspector General or to him through the Inspectors, shall at once be brought by the Inspector General to the notice of the Collector concerned.

(6) Any cases of evasion of the Stamp Laws which come to the notice of the Inspector General or Inspectors shall promptly be reported, in the case of the Inspectors through the office of the Inspector General, to the Collector concerned.

(7) It shall be the duty of the Inspector General and his Inspectors on the requisition of a District Judge, Collector or Magistrate, to arrange at their convenience for the examination of the records of the Courts of such officers and of those subordinate to them, with a view to ascertain whether the court-fee stamps required by law to be affixed on the several documents have been duly cancelled. (G. R. No. 5689, dated 26th October 1874.)

7. As the Superintendent of Stamps has neither the leisure nor the requisite establishment to enable him to examine the records of Government offices with the view of ascertaining whether the law and rules regarding the use of proper stamps and their cancellation are strictly observed and whether there is any fraudulent use of stamps, the Inspector General of Registration and Stamps and his department should carry out this duty in Bombay as elsewhere in the Presidency. (G. R. No. 6462, dated 30th August 1883.)

8. That all Revenue and Judicial Officers in the Mofussil should avail themselves of the services of Stamp Inspectors in accordance with the provisions of Rule 7 of the rules issued with Government Resolution No. 5689, dated 26th October 1874. (G. R. No. 4797, dated 7th August 1877.)

9. It should be understood that it is a part of the duties of the Registration Department to search the records of all offices for evidence of a fraudulent use of stamps. (G. R. No. 3782, dated 26th July 1878.)

10. As regular inspections are necessary for the prevention of fraud and negligence in the use of stamps and in rendering accounts of stamp stocks, the inspecting officers of the Registration Department should so arrange their tours, consistently with their other duties, as to bring all depôts and offices under inspection within as short a period as possible. With a view to enable Government to judge how far these instructions are carried out, the Inspector General of Registration and Stamps should append to his annual Stamp Inspection Report a statement showing the amount of stamp inspection work performed and remaining to be performed in each district. (G. R. No. 7723, dated 4th November 1882.)

11. The Inspector General of Registration and Stamps and the Inspectors of the Registration Department are authorized to call upon licensed stamp vendors to produce not only the stocks of stamps in their hands, but also their account books, with a view to more effectually ascertaining, from a reference to past sales, whether the supplies in hand may be reasonably deemed to be sufficient. (G. R. No. 4381, dated 3rd August 1875.)

12. District Registrars should take steps to give due effect in their respective charges to the orders regarding the periodical examination of stamp vendors' accounts and stocks contained in paragraph 11* of the remarks on Form No. 17 at page 205 of the Manual of Revenue Accounts, Third Edition. (G. R. No. 8962, dated 15th December 1890.)

13. In the case of stamps an examination should be carried out once in each of the four quarters of a calendar year by either the Collector, an Assistant Collector or a Deputy Collector not being the Deputy Collector in permanent charge of the Treasury, provided (a) that the Collector shall himself carry out at least one of such examinations in each official year; (b) that the maximum interval which shall be allowed to elapse between any two of the examinations shall not exceed four calendar months; and (c) that when an examination has been carried out by the Inspector General of Registration and Stamps before the examination for a particular quarter has been made by a district officer, the district officer need not examine the stock of stamps during that quarter. (G. R. No. 9814 dated 5th December 1885.)

14. Government will not insist on Assistant Collectors counting the stamps at Mámíatdárs' offices, if the officers of the Registration Department have counted them before in the same season; but Assistant Collectors are to understand that they are not relieved of the responsibility of looking after the stamp transactions and arrangements in the same manner as they supervise all the rest of the Mámíatdár's work. (G. R. No. 6897, dated 31st December 1874.)

* "11. Stamp-vendors are public servants within the meaning of the Penal Code, and the records which they keep are Government records. They are required to show their books and stock to any officer duly authorized by the Collector or by Government to make inspection or examination. The stamp-vendor's Day and Issue Book should be in the same form as Form 17. One form will ordinarily suffice for his whole stock. 1st, court-fee labels should be entered; 2nd, court-fee papers; 3rd, general stamped papers; 4th, general stamp labels. A monthly abstract similar to that described in paragraph 8 above, except that labels need be shown in total only, is to be forwarded to the Mámíatdár for record on the closing day of each month. Stamp-vendors must carefully observe the rule referred to in paragraph 5 above, as well as the other rules, copies of which are supplied to them, relating to the sale of court-fee stamps and general stamps respectively. At the beginning of each month every vendor whose place of business is at the táluka head-quarters should show his book and balance of papers in hand to the officer in charge of the Treasury. Other vendors should show their books and balances when they attend at the táluka Treasury for the purpose of purchasing stamps."

15. The stamp-revenue supervising officers should ascertain during their tours of inspection or otherwise, as opportunities occur, how far the prescribed classes of stamped papers are applied to the purpose for which they were intended, and bring to notice the result of the enquiries in their periodical reports. (G. I., F. D., No. 941, dated 12th February 1872; *vide* G. R. No. 870, dated 28th *idem*.)

IV.—EXAMINATIONS.

1. The Inspector General of Registration and Stamps should on his tours examine the licensed vendors of stamps in the Stamp and Court-fees' Acts. (G. R. No. 5759, dated 22nd September 1877.)

2. His Excellency in Council has no objection to candidates for stamp licenses being examined in the Stamp and Court-fees' Acts to prove their acquaintance with the description of stamps required, but the examination must be of a very simple character. (G. R. No. 7723, dated 4th November 1882.)

V.—INDENTS, SUPPLY AND CUSTODY OF STAMPS.

1. In future there shall be but one general consolidated indent for stamps of all descriptions prepared by the Superintendent of Stamps, Calcutta, for transmission through the Government of India, so as to reach the Secretary of State not later than the first week in November each year. To this end, the Superintendents of Stamps in Madras and Bombay shall forward their indents so as to reach Calcutta not later than the first week in September in each year, and the Superintendent of Stamps and Stationery, Calcutta, will prepare a consolidated indent showing the demand for each of the three Presidencies, and submit it so as to reach the Government of India not later than the 4th October in each year for transmission to the Secretary of State.

It will be the duty of the Superintendent of Stamps, Calcutta, to examine the demands for each description and denomination of stamp, and to see whether by an economical redistribution of stock already held, the full aggregate indent resulting from a mere compilation of the local indents is necessary. It will also be his duty to see that the minimum quantities, which the Secretary of State is required to order under the several contracts, are ordered in the indents, and in case of excess demand over requirements, which may be occasionally necessary in order to conform to the terms of the contracts, that the excess is equitably distributed among the three depôts. And, finally, he will be responsible for the correct calculation of the amounts ordered. The Superintendent at Calcutta is authorized to correspond directly with the Superintendents at Bombay and Madras on any matter on which he considers further information necessary to enable him to conform to these orders. (G. I., F. & C., Nos. 972, dated 26th February 1880, 3217, dated 11th October 1880, and 896, dated 18th February 1889; *vide* G. Rs. Nos. 1247, dated 9th March 1880, 5773,

dated 30th October 1880, and 1811, dated 6th March 1889.)

2. All indents for stamps should be made out for *sheets* of stamps and not for numbers of single stamps. (S. of S. No. 125 (Financial), dated 12th April 1877; *vide* G. R. No. 3921, dated 25th June 1877.)

3. The Superintendent of Stamps should prepare his indents for stamps and stamped paper of all descriptions on the assumption that the stamps indented for will be supplied within 18 months from the date of the indent, and he should adopt the method of calculating the annual requirements formulated in the following form:—

4	5	6	7	
Established proportion	How established proportion is calculated.	Number or quantity in store on	Number or quantity due on previous indents.	Number or quantity now indented for.
Sheets.		Sheets.	Sheets.	Sheets.
3,50,000	3½ times the average annual consumption.	80,000	60,000	2,10,000

Column 4 is calculated from the Stamp Office records.

Columns 6 and 7 are entered from the Stamp Office records.

The column "Established proportion" should represent 3½ times the average annual consumption calculated on the previous three years' actual consumption; the column "Now indented for" showing only column 5 — (column 6 + column 7). Assuming 1,00,000 to be the average annual consumption calculated on the actuals of the past three years, the proper calculation is as shown in the above form. (G. I., F. & C., Nos. 1981, dated 4th August 1879, and 2907, dated 24th September 1880; *vide* G. Rs. Nos. 4378, dated 20th August 1879, and 5317, dated 8th October 1880.)

4. The cases containing supplies of stamps, on their arrival from England, should be opened, and the bundles or packets of stamps counted. The packets need not, however, be opened, except when their appearance is suspicious. The Examining Committee should repack and seal the packets which they open.

It is also clearly important, to prevent frauds and errors remaining undetected for years, that the stock should be used up in the order of its receipt. (G. Rs. Nos. 2537, dated 6th May 1881, 3454, dated 16th June 1881, and 6140, dated 18th October 1881.)

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5. Cases containing postal envelopes which are found on their arrival from England to be in good order by the Survey Committee, and which do not bear any appearance of having been tampered with, should be passed into store without being opened. (G. R. No. 2436, dated 20th March 1884.)

6. Sealed packages of stamped papers are not opened at the office of the Superintendent of Stamps when received from England, and they need not be opened at the Treasuries up-country when received there provided the English seals are intact; but the contents of any sealed package, when opened for use, should be immediately counted in the presence of the Treasury Officer in order that the contents may be certified to.

A numbered label is not affixed in the Bombay Stamp Office to the packages forwarded to the Treasury Officers. In the case of any deficiency, the wrapper should be returned to the Superintendent's office in order that the English number shown thereon may be communicated to the Director General of Stores.

Packages made up in, and bearing the seal of the Bombay Stamp Office should invariably be opened on receipt, and their contents verified by the Treasury Officer before being stored. (G. R. No. 2610, dated 25th March 1884.)

7. Whenever it is necessary to bring to the notice of the Director General of Stores any deficiencies in the value and number of stamp stores received from England, the number shown on the wrappers of packages of stamps, and which is allotted to the packages during the manufacture of the stamps, should be quoted, so as to facilitate enquiry. (G. R. No. 274, dated 11th January 1884.)

8. Whenever there is any fault in a parcel of stamps sent out from England, the wrappers should be sent home, as they bear the initials of the officers responsible for the contents. (S. of S. No. 26 Finl. (Stores), dated 10th December 1891; *vide* G. R. No. 723, dated 1st February 1892.)

9. The following are the rules for the security and safe custody of the stamps and water-marked paper in charge of the Superintendent of Stamps:—

(1) The store of stamps in charge of the Superintendent of Stamps at the General Stamp Office, shall be divided into two stocks of stamps, one of which shall be called the "Reserve Stock," and the other the "Current Stock."

(2) The reserve stock, which shall contain the great bulk of the stamps of all kinds and denominations, shall be held in the joint charge of the Superintendent of Stamps and the Assistant Superintendent. The current stock of stamps shall be in the charge of the Assistant Superintendent and the Store-keeper.

(3) The reserve stock of stamps shall be kept in the strong rooms of the Stamp Office. The doors of these rooms shall be protected by double locks.

The key of one lock shall remain in the hands of the Superintendent, and the key of the other in the hands of the Assistant Superintendent.

(4) The adhesive stamps kept in the reserve stock shall be principally kept in fire-proof safes, the keys of which shall be deposited in an iron safe in the strong room, and the key of the said safe shall be kept by the Superintendent. A list of the contents of each safe will be kept in it, which list is to bear the Superintendent's and Assistant Superintendent's signature. The remaining portion of the reserve adhesive stamps may be kept in the original cases and sealed until required. The reserve portion of non-judicial or bi-color stamps shall be kept in teak presses in the strong room or in their original cases and sealed.

(5) The current stock of stamps shall contain a supply of stamps of all kinds and denominations up to Rs. 25, sufficient for one month's requirements. Stamps of a higher value shall be given out weekly from the reserve stock, and passed into the current stock.

(6) The keys of the safes containing current stamps in the office shall be in the sole charge of the Assistant Superintendent.

(7) The keys of the double locks on the doors of the rooms, in which the current stock of stamps is kept, shall be held by the Assistant Superintendent and the Store-keeper, and both shall be present when the current stock of stamps is opened daily, and both of them along with the Superintendent shall be present when the reserve stock is opened.

(8) In the event of absence or sickness of any of the above three persons, his duties can be deputed to either of the other two.

(9) When stamps have been passed out from the current stock, they shall be considered to be in the charge of the Store-keeper, who shall be answerable for their safe custody until they are either used in the office, or despatched to Treasury and other officers, who have indented for them.

(10) The stock of water-marked paper of the kind lately used for the printing of bi-color* stamps shall be kept in the godown away from the Stamp Office which is rented by Government. The keys of the godown will remain with the Assistant Superintendent; but the Store-keeper shall have access to the godown, under instructions from his superior officers, in order to bring the water-marked paper required for use either in the Stamp Office, or intended for issue to other departments.

*The printing of these stamps is now stopped.

(11) The stock of hundi water-marked paper of the kind used in the Government Departments for Supply Bills, Transfer Remittance, Receipts, &c., shall be kept with the reserve stock of stamps under the charge of the Superintendent alone, and issued as occasion requires to the Assistant Superintendent to be kept with the current stock of stamps for daily use. (G. R. No. 5690, dated 26th October 1874.)

10. The following are the rules for the guidance of officers who have the custody of stamps at the Táluka Treasuries :—

- (1) As soon as stamps are received from Bombay they should be counted in the Mámlatdár's office, in the presence of the Huzúr Deputy Collector and the Mámlatdár, and brought on the accounts.
- (2) Stamps to be issued to tálukas should be counted and issued in the presence of the Huzúr Deputy Collector and the Mámlatdár, the entries in the book being made and compared with indents before issue.
- (3) Indents from tálukas should not be submitted oftener than once in every two months.
- (4) The Stamp Kárkún should never keep in his possession stamps of total higher value than the amount of security given by him.
- (5) As a general rule, the Stamp Kárkún should replenish his stock only once a week and should not be permitted to receive stamps from the general stock oftener than that. He should calculate the average weekly sales and regulate his supply accordingly.
- (6) The amount of the Stamp Kárkún's security should be fixed at an amount equal to the general sales of one week, but in no case shall the security be worth less than 1,000 Rupees.
- (7) On the occasion of each sale, the stamps asked for by the licensed vendor should be compared with the entries of sale against his name in the book, and the amount of cash entered in the Day Book as received from him.
- (8) Ordinarily, stamps should not be sold to licensed vendors oftener than once a week, a different day of the week being appointed for each vendor.
- (9) A round sum of rupees should be fixed as the minimum value of stamps that can be removed at one time by each vendor. This is to be fixed on an average struck from past purchases. Any excess of stamps supplied over the above minimum should also be such as would be represented by a round sum of rupees. This is desirable to simplify all calculations.
- (10) The rules limiting the issue of stamps to tálukas and stamp vendors to certain periods may be relaxed whenever, in the opinion of the officers concerned, the interest of the State and the convenience of the public render such relaxation necessary. (G. R. No. 1028, dated 26th February 1880.)

11. or each description of stamps classified, as

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. General stamp papers, hundis and bills of lading. 2. Receipt stamps and foreign bills of exchange. 3. Share transfer. 4. Court-fee stamps. 5. Telegraph. | <p>per margin, under seven different heads, two accounts, one being a stock book and the other a book of issue, should invariably be kept in Central Depôts</p> |
|---|---|

6. Postal. Uniformity of procedure will thus be secured, and in addition it will enable any one examining the accounts to at once ascertain therefrom what quantity of any particular description of stamp is in charge of the Huzúr Deputy Collector and what quantity is in the charge of the Treasurer. (G. R. No. 2572, dated 20th May 1878.)

12. The stock of stamped envelopes and post-cards in the depôts at Kaira, Násik and Sholápur should be limited to the probable consumption in two months. (G. R. No. 7490, dated 4th November 1887.)

* Printed at pp. 309—313 of the Compilation of General Rules.

13. As the Residency Treasury at Baroda has no sub-treasury under it, there is no necessity for its keeping such a large stock of stamps as the rules sanctioned in the Resolution of the Government of India, No. 1596,* dated 28th June 1886, require. For the convenience of that Treasury, accordingly, the period of five months in Rule 7 is altered to two months and the periods of six and three months in Rule 8 are altered to four and two months respectively. (G. R. No. 6037, dated 7th September 1888.)

14. The officer in charge of the stamp depôt at Kárwár is allowed to prepare his stamp indent due in the month of March every year for a supply of stamps equal to the probable requirements of six instead of three months. (G. R. No. 5334, dated 25th July 1893.)

15. The use in Native States of labels or stamps of the Government of India, however carefully altered, in levying the revenue of those States is considered by the Governor General in Council to be dangerous to the revenues of British India. His Excellency in Council also deems it necessary to direct that stamps or labels prepared for use in the levy of duties under the Indian Post Office Act, the General Stamp Act, the Court Fees Act, or of any other duties of the Government of India, should under no circumstances be supplied or used for any other purposes than the levy of the Imperial revenues of British India.

These orders do not apply to the Berárs. (G. I., F. D., No. 805, dated 12th June 1876; *vide* G. Rs. Nos. 3655, dated 23rd *idem*, and 3869, dated 5th July 1876.)

16. The Superintendent of Stamps, Bombay, should supply the Resident at Hyderábád with adhesive court-fee stamps with the word "Secundrábád" printed across them on the requisition of the Resident. The expenses entailed by the arrangement, including the value of the stamps supplied and the cost of overprinting them, must be paid by the Secundrábád Abkári Fund. (G. I., F. & C., No. 1465, dated 9th April 1891; *vide* G. R. No. 2809, dated 24th *idem*.)

17. The Political Agencies in Gujarát may be supplied with impressed and adhesive court-fee stamps perforated as well as overprinted with the names of the Agencies for use in the collection of fees, fines and other judicial receipts forming the Local Funds in those Agencies. The expenditure entailed by the arrangement, including the value of the stamps and the cost of overprinting and perforating, as also the cost of transport, should be borne by the Local Funds concerned. (G. L., F. & C.; No. S. R. 4658, dated 19th November 1892; *vide* G. Rs. Nos. 14, dated 3rd January 1893, and 1169, dated 10th February 1893.)

VI.—SALE OF STAMPS.

1. Every Court is to be a sub-depôt for the sale of stamps. (G. R. No. 917, dated 19th February 1874.)

2. The following are the rules for the sale of adhesive court-fee stamps by the salaried vendors at the High Court and the Court of Small Causes, Bombay :—

(1) Indents are to be submitted by the salaried vendors twice a week, *i.e.*, every Wednesday and Saturday before 10 o'clock. The vendors should arrange to keep a sufficient stock of stamps to meet the requirements of suitors, and indent only for such stamps as are usually used.

(2) The stamps, together with the daily cash collections, are to be locked up in the chest safes, for which a suitable place will be provided by the Court. The key of the safe to be retained by the vendor himself.

(3) The sale book is to be written up daily. It should be kept neat and free from erasures. Corrections, if any, may be made in red ink, and initialled by the vendor.

(4) The cash collections are to be sent daily at 10-30 A.M. to the Stamp Office by the vendor's peon with a printed memorandum of the amount remitted, for which a receipt will be granted in a printed book.

(5) A return of stamps sold and the balance of stamps in hand, and cash, together with the sale book is to be forwarded weekly to the Stamp Office for verification, commencing from Wednesday, the 7th May 1873. The stamps will be examined either by the Assistant Superintendent or the Store-keeper, and correctness certified.

(6) Stamps are to be sold from 10 A.M. to 4 P.M. for cash. (G. R. No. 4643, dated 14th August 1873.)

3. Care must be taken that the cash receipts of each day on account of stamps sold by the stamp vendors at the High Court and the Court of Small Causes at Bombay are regularly paid into the office of the Superintendent of Stamps and that the account of stamps in hand is checked weekly. The Assistant Superintendent of Stamps should at least once a

month visit the several Courts and take stock of the stamps, and satisfy himself that the wants of the public are properly attended to. (G. R. No. 2289, dated 22nd April 1873.)

4. The Shroff of the Military Treasure Chest at Deesa should be treated as an *ex-officio* vendor and be directed to sell stamps of all kinds and of all values. (G. R. No. 5893, dated 7th November 1874.)

5. The Superintendent of Panchgani should be granted a license for the sale of stamps at that station, the stamps being supplied to him without payment being required in ready money. (G. R. No. 5255, dated 1st October 1879.)

6. One of the kárkúns employed in the office of the Huzúr Deputy Collector, Dhárwár, but not connected with the stamp branch of the Huzúr Treasury, should be appointed an *ex-officio* vendor of court-fee and receipt stamps, and be paid the authorized discount in addition to his pay in the same way as the kárkúns of Collectors and their Assistants when on tour in the districts. The kárkún should also be authorized to sell postage stamps and envelopes. (G. R. No. 1513, dated 5th March 1888.)

* Printed at page 325 of the Compilation of General Rule.

7. The Cantonment Magistrate, Málegaon, is authorized to sell court-fee and general stamps in accordance with the spirit of the rules laid down in Government Resolution* No. 6376, dated 9th September 1886. (G. R. No. 5169, dated 23rd June 1892.)

8. A clerk of the Chief Presidency Magistrate's Court and a clerk of the Presidency Magistrate's Court, Girgáon, may be allowed to sell court-fee stamps of the value of one anna and eight annas each, and to receive commission at 2 per cent. on the sales in addition to their pay. (G. Rs. Nos. 4896, dated 18th July 1891, and 3262, dated 5th May 1893.)

9. There is no objection to schoolmasters being appointed vendors of stamps, provided that the sale of stamps be limited to certain hours in the day, so as not to interfere with school hours. (G. R. No. 3475, dated 10th October 1867.)

10. Government will not object to grant licenses for the sale of stamps to such Sub-Registrars as may be recommended for the purpose. (G. R. No. 2608, dated 1st June 1871.)

11. In cases where for the public convenience and in the public interest it is deemed desirable to grant licenses for the sale of non-judicial stamps to Post Masters, Government will be prepared to consider carefully any representations that may be made by Collectors and Commissioners, and with the consent of the Postal authorities to grant such licenses if such a course is held to be expedient. (G. R. No. 6504, dated 9th December 1880.)

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12. The rule* sanctioned by Government Resolution No. 6563, dated 5th September 1883, for regulating the sale of impressed court-fee stamps by licensed vendors, does not require that a person who has to pay a court fee of Rs. 50 or upwards shall obtain all the impressed stamps or labels necessary to represent the fee from an *ex-officio* vendor or from a stamp vendor holding a special license. And the rule is not transgressed if a person, in a transaction requiring a court-fee stamp, say of the value of Rs. 67-8-0, after having purchased an impressed paper of the value of Rs. 60 (the highest suitable value at the time obtainable) from the local *ex-officio* vendor, uses, in order to make up the fee of Rs. 67-8-0, labels which he purchased either then expressly or at any previous time from a licensed stamp vendor. Nor can it be said that the licensed stamp vendor transgressed the rule if he sold labels to the person for Rs. 7-8-0 knowing that he intended to use them for the above purpose, because he was not bound to inquire what purpose the labels were to be put to. The rule merely prohibits the sale, by a licensed stamp vendor, of any impressed court-fee stamp of the value of Rs. 50, or upwards, except under a special license. (L. R. No. 389, dated 24th March 1886; *vide* G. R. No. 2821, dated 14th April 1886.)

* Printed at page 335 of the Compilation of General Rules.

13. No restriction prevails regarding the sale of stamps on Sundays by licensed stamp vendors who are not public servants and do not sell at public offices. (G. R. No. 5334, dated 25th October 1871.)

14. In the new adhesive court-fee stamps a blank space has been left for inserting, at the time of sale to the public, the name of the purchaser, the date of sale and the signature of the vendor. The salaried vendors of stamps in the Court of Small Causes, Bombay, are, however, exempted from the obligation to endorse on the stamps sold by them the names of the purchasers. (G. R. Nos. 3780, dated 16th May 1883, and 2438, dated 20th March 1884.)

15. The Stamp Act and the rules thereunder extend to British India only. A Collector is, therefore, not empowered to grant licenses to sell stamps in foreign territory. (G. R. No. 2354, dated 19th April 1887.)

16. Sales of court-fee stamps by stamp-vendors are to be recorded in the following form :—

Date.	Name and Residence of Purchaser.	Kind of Paper.	Number of Papers.	Current Number of Sales.	Rate.	Value.	Remarks.
1	2	3	4	5	6	7	8

(G. Rs. Nos. 6780, dated 12th September 1883, and 1192, dated 7th February 1884.)

17. The Collectors should through their Mámlatdárs furnish every licensed vendor in their districts with a vernacular copy of every notification appearing in the *Government Gazette* the tendency of which is in any way to modify or amend any of the provisions of the Stamp Act or the Court-fees Act. The distribution of these vernacular copies should be effected as soon as possible after the publication, in the *Gazette*, of the particular notification to which they may relate. In case of notifications reducing the rates under either Act, their vernacular copies should be posted in a conspicuous place in the shop or stall of every registered licensed vendor of stamps. The Inspector General of Registration and Stamps should see on his tours that these orders are properly carried out.

Notifications of the Governor General in Council amending the rules should be published in the *Government Gazette* in English, as well as in Maráthi Gujaráti and Kánarese. The Superintendent, Government Central Press, should send direct to the Collectors the vernacular copies of rules for distribution amongst the stamp vendors. (G. Rs. Nos. 5759, dated 22nd September 1877, and 7175, dated 1st December 1877.)

18. The following is the form of receipts for stamps issued from a Treasury to Revenue Officers for sale when on tour :—

Receipt for stamps issued.

Received from the Treasury Officer _____ the undermentioned supply of stamps as per the terms of Government Resolution, Revenue Department, No. 6376,* dated 9th September 1886 :—

* Printed at p. 325 of the Compilation of General Rules.

Number.	Description	Denomination.	Value.	

Dated 189 .

Signature and Designation
of Receiving Officer.

N. B.—A separate form of this receipt should be filled in and signed for each description or denomination of stamp issued to a Revenue Officer under the terms of the orders quoted above. The receipt on being received in the Treasury should be placed among the stock of stamps from which the supply acknowledged has been withdrawn.

(G. R. No. 4406, dated 4th July 1888.)

VII.—ILLEGAL SALE OR USE OF STAMPS.

1. On reference to the High Court, under Section 438 of the Criminal Procedure Code, of a case in

which a person was convicted by a Second Class Magistrate of selling a stamp without authority to do so under Section 68 of Act I of 1879, and sentenced to pay a fine of Rs. 15 or in default to suffer one month's rigorous imprisonment, the following order was passed by that Court :—

“As the accused is not a person appointed to sell stamps, and has sold a stamp, the conviction under Section 68 of Act I of 1879 is quite legal.”

(G. R. No. 1125, dated 19th February 1887.)

2. The Stamp Act, 1879, has not the least application to postage stamp labels. Rule 9* of the rules for the custody, distribution and sale of postage stamp labels, &c., published in the *Gazette of India*, dated 15th January 1881, Part II, page 95, distinctly mentions *bona fide* retail vendors of postage stamps other than those mentioned in the preceding rule, and does not require such *bona fide* retail vendors to be authorized to sell postage labels in the manner and under the conditions described in that rule. The rule simply provides that a district officer may authorize the grant of discount on purchases of postage stamp labels to such *bona fide* retail vendors. Private individuals who sell postage stamp labels, and who choose to forego the grant of discount, are not subject to any such conditions.

* *Vide* Rule 24 of the rules for the custody, supply and sale of stamps of all descriptions published under G. N. No. 5422, dated 30th July 1886, at pages 644—648 of the B. G. G. of 5th August 1886.

As regards the sale of receipt stamps, the Stamp Act, 1879, is applicable, and under the provisions of Section 68 of that Act it is a punishable offence for any person who is not appointed to sell stamps under the rules made under Section 55 of the Act to sell or offer for sale any stamps to which the Act relates. (L. R. No. 412, dated 8th April 1882; *vide* G. R. No. 2763, dated 27th idem; *vide* also G. R. No. 7723, dated 4th November 1882.)

3. The writing of the name of the purchaser and other particulars on the back of a stamp is required in the case of *impressed stamps* by the rules for the sale of stamps. The rules go no further than to require these endorsements to be made by the stamp vendors, and there is no provision of the Acts or of any rule made under them that a stamp so endorsed may only be used by or on behalf of the person whose name is so endorsed. The purpose of the rules requiring the endorsement seems to be merely the provision of a means of ascertaining when, where and by whom a stamp has been purchased, but there is nothing to prevent an impressed stamp purchased by one person being used by some other person.

As regards court-fee adhesive stamps, there is not even a rule to require 'the name of the purchaser, the date of sale and the signature of the vendor' to be written in the blank space left for them. Government Resolution No. 3780† of 16th May 1883 is the only authority for the practice.

† *Vide* Order 14 (VI) *supra*.

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Adhesive court-fee stamps as well as impressed stamps used under the General Stamp Act or the Court-fees Act can, therefore, legally be used by persons other than those whose names they bear as purchasers. (L. R. No. 1105, dated 23rd August 1884; *vide* G. R. No. 7199, dated 9th September 1884.)

4. Although no person can sell adhesive court-fee stamps without a license, a document which bears a stamp unlawfully sold is not thereby invalidated. (G. R. No. 5153, dated 26th June 1884.)

5. The Government of India in their Resolution No. 1114, dated 25th February 1884, republished at page 169 of the *Bombay Government Gazette* of 6th March 1884 under Notification No. 1994 of the 5th *idem*, having directed that non-judicial stamps of the new design should be exclusively used, and the period allowed to the public for exchanging bi-color stamps of local manufacture for those of the new design having expired, the use of a stamp of the old bi-color pattern, even if it was purchased from a stamp vendor at a time when stamps of that pattern were in general use, is illegal. (G. R. No. 6156, dated 28th August 1886.)

VIII.—DOCUMENTS LIABLE TO STAMP DUTY OR OTHERWISE.

1. When a doubt arises as to the liability of any class of documents to stamp duty, the proper course is to refer a test case under Section 46 of the Stamp Act to the High Court and not to Government, which can give no binding orders on the subject. (L. R. No. 690, dated 20th May 1887; *vide* G. R. No. 4021, dated 2nd July 1887.)

2. The general receipt given by the head of an office on the back of a Pay Abstract is not liable to a stamp duty, the receipt being executed in this instance by an officer of Government in his official capacity and acting on behalf of Government, but when the amount of the Pay Abstract comes to be distributed, the receipts of the payees for salaries exceeding 20 rupees a month must have a stamp of one anna affixed to each, like other receipts given for the payment of money. The taking of such receipts on the back of a general Pay Abstract does not form any ground for exemption. (G. I., H. D., No. 3860, dated 31st July 1862; *vide* G. N., dated 25th August 1862.)

3. A power of attorney is not requisite in cases in which District Officers and their subordinates while on tour in the districts order payments out of their salaries at the head-quarter station; and no stamp is, therefore, necessary. (G. R. No. 7464, dated 19th December 1876.)

4. The sowárs of the Salt Department being in fact Mounted Police are under entry 14 (a) of the second schedule to the Notification of the Government of India No. 2897 S. R.,* dated 7th June 1894, exempt from stamp duty in respect of the receipts

* Republished at pp. 602—617 of the *B. G. G.* of 21st June 1894.

given by them on account of their pay and allowances. (G. R. No. 4134, dated 9th August 1880.)

5. A joint receipt given by a Government servant for a sum in excess of Rs. 20, part of which, not exceeding Rs. 20, is for his own salary and the rest for a contingent allowance which he receives for expenditure on behalf of Government, is not liable to stamp duty. Such a receipt is really two receipts in one. It is a receipt given by him in his personal character for his salary and it is a receipt given by him in his official capacity for money with which he is entrusted on behalf of Government.

Separate receipts should, however, be invariably given for money received by an officer on his own account and for money drawn for expenditure on behalf of Government. (G. R. No. 7508, dated 20th September 1884.)

6. Under Article 940 of the Civil Service Regulations the leave allowances of a ministerial officer can be drawn only at the Treasury where his salary is payable. In consequence of this rule, ministerial officers, when spending their leave at stations far removed from the place of their employment, are obliged to have their allowances drawn through fellow officers or friends living at the place where they are employed. As these agents are in most cases only informally appointed, and as payment to an informally appointed agent is not a valid discharge, the practice was represented as unsafe. It was at the same time urged that it would be a great hardship to require men upon small salaries to go through the formality of executing a regular stamped power-of-attorney, and that the Government of India should exempt from stamp duty instruments executed by public servants drawing not more than Rs. 200 a month, for the sole purpose of realizing their leave allowances. Before finally deciding on the question, enquiry was made by the Government of India as to the practice of the several Local Governments and Administrations in respect of the payment of leave allowances of ministerial and other non-gazetted officers when such allowances were not drawn by the absentees in person. The Local Governments were also asked to report if a change in the existing practice was considered necessary. From the replies received it appeared that the arrangements varied in different provinces; but the general consensus of opinion was that the present arrangements worked well and did not require to be altered in any way. Under these circumstances the Government of India decided that the existing arrangements need not be disturbed. (G. I., F. & C., No. 58, dated 5th April 1882; *vide* G. R. No. 2612, dated 24th *idem*.)

7. As to the question whether persons employed in Goa by the British Government should be required to attach British receipt stamps to their pay bills, it is observed that Section 5 of the Indian Stamp Act renders chargeable with duty every instrument

(other than a bill of exchange or promissory note) mentioned in the first schedule, which not having been previously executed by any person, is executed out of British India on or after the first day of April 1879, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

A receipted pay bill is an instrument mentioned as No. 52 in Schedule I to the Act. If, therefore, it relates to anything done or to be done in British India, it must be stamped with a one-anna British Indian stamp, and if it is not stamped, it will not be admissible in evidence (*vide* Section 34).

The receipt relates to the payment of money. If, therefore, the payment takes place in British India, the receipt must be stamped in accordance with Act I of 1879. If the payment does not take place in British India, the mere fact that the contract may have been accepted there, or that the funds for payment may have been received thence, will not suffice to bring the receipt on the pay bill within Section 5 of the Indian Stamp Act I of 1879. For the receipt cannot be said to relate to the contract or to the source from which the money is obtained, but only according to the strict construction to be given to fiscal enactments, to the actual payment or delivery of the money.

The *lex fori* governs procedure in actions on a contract as the *lex loci contractus* or the law of the place of acceptance governs its validity, and the *lex loci solutionis* or law of the place for performance governs all relating to its fulfilment.

The Courts do not take notice of the revenue laws of foreign States unless when the contract is itself made void by them. If, therefore, receipt were offered in a British Indian Court as evidence of a payment made in Goa, the Court would not consider whether or no it was stamped as required by the law for the time being in force in Goa.

It may be that the law in force in Goa requires a stamp to be affixed to a receipt for money paid there, and if so it would be advisable that the requirements of that law should be complied with, though it is very unlikely that any suit in which there could be occasion for production of the pay bills could arise there. (L. R. No. 138, dated 2nd February 1891; *vide* G. R. No. 1391, dated 20th *idem*.)

8. A power of attorney executed by a Government pensioner authorizing his agent to draw, during his absence from Baroda, his pension from the Residency Treasury (which is situated in Baroda territory), is

not liable to stamp duty. (G. R. No. 3464, dated 4th June 1887.)

9. Customs House pass notes for Commissariat stores cannot be considered as applications presented by persons having dealings with Government, and, therefore, do not require to be stamped under Schedule II of the Court Fees Act, 1870. (G. R. No. 1524, dated 18th March 1873.)

10. Article 8, Schedule I of Act VII of 1870, applies in terms only to the copy of any document which is liable to stamp duty under the Stamp Act (1879). If, therefore, the original document is not liable to stamp duty under that Act, no court fee is leviable under Article 8, Schedule I of Act VII of 1870, on a copy of it. (L. R. No. 337, dated 27th March 1879; *vide* G. R. No. 1772, dated 2nd April 1879.)

11. Transfers of debentures, whereby, for the purpose of securing money advanced by way of loan, a right over the wharfage fees levied by the Karachi Harbour Board under Act III of 1879 is created in favour of the creditor, are exempted from stamp duty by clause 17 (d) of Schedule II of Act I of 1879. (L. R. No. 1109, dated 20th September 1881; *vide* G. R. No. 5649, dated 28th *idem*.)

12. Receipts for sums in excess of Rs. 20 on account of wharfage fees, &c., granted by the Karachi Harbour Board are liable to stamp duty, and Government do not see any reason to exempt such receipts from the payment of duty. (G. R. No. 4775, dated 11th June 1885.)

13. Petitions and applications from persons claiming ground which is not shown in the city survey maps are exempt from court fees under Section 19, clause 9, of the Court Fees Act. (L. R. No. 816, dated 15th October 1878; *vide* G. R. No. 5434, dated 23rd *idem*.)

14. Certificates of sale granted by the Civil Courts as well as those granted by the Revenue officers are clearly liable to stamp duty under Article 16, Schedule I of the Stamp Act. (L. R. No. 524, dated 26th April 1880; *vide* G. R. No. 3009, dated 10th June 1880.)

15. Article No. 16 of Schedule II of the Indian Stamp Act, 1879, exempts certain 'surrenders of leases' from stamp duty. A notice of relinquishment given by an occupant under Section 74 of the Revenue Code is not a surrender of a lease within the meaning of that article, but such notices are not liable to stamp duty because there is nothing in Schedule I of that Act that affects them. If the notice can properly be regarded as 'an application for leave to relinquish land,' then it is exempted from court fee by Section 19, clause xi, of Act VII of 1870. (L. R. No. 524, dated 26th April 1880; *vide* G. R. No. 3009, dated 10th June 1880.)

16. Section 90 of the Land Revenue Code requires an inámdár, who attaches a defaulter's property, to

make an immediate *report* to the Collector of his having done so. The Collector, if the demand appears a just one, may order the sale of the property. There can be no reason for holding the inámdár's report to be an application or petition within the meaning of Article I, clause (b) of Schedule II of the Court Fees Act. (L. R. No. 163, dated 1st February 1882; *vide* G. R. No. 987, dated 11th *idem*.)

17. Under the view of the law given by the Re-membrancer of Legal Affairs in his following report No. 325, dated 4th March 1884, receipts given not only by dumáldárs but also by any inámdár to the village officers for sums paid by such officers to the dumáldár or inámdár on account of land-revenue collections must be stamped when the sum in respect of which the receipt is given exceeds Rs. 20 :—

“I am of opinion that the exemption in clause 15 (c), Schedule II of the Stamp Act applies only to receipts given for payments of rent made by cultivators, whether to a Government officer or to an inámdár. Thus every receipt given under Section 58 of the Land Revenue Code is exempt. But a receipt given by an inámdár to a village officer for the aggregate or some portion of the aggregate collections made by him in the village is not, I think, exempt from stamp duty. Similar receipts given by a Government officer would, it is true, be exempt, but in that case the exemption would fall under clause 18 of Schedule II of the Stamp Act.”

(G. R. No. 2641, dated 27th March 1884.)

18. Letters addressed by Government contractors to the Collector relating to the contract work ought to be treated as of the nature of applications, and not as official correspondence, and are accordingly liable to stamp duty. (L. R. No. 1525, dated 27th November 1882; *vide* G. R. No. 8, dated 3rd January 1883.)

19. The attention of the Board of Revenue, Lower Provinces, was directed to a case in which a bank had granted a duplicate receipt to another bank on unstamped paper, although the original receipt was stamped with a duty of one anna, and the money for which the original receipt was granted was required to be accounted for to a party other than the depositor. The case was referred to the Advocate General for opinion as to whether the duplicate receipt was liable to stamp duty, and the following opinion was given by him :—

“A receipt for money is an instrument within the meaning of the Stamp Act (Act I of 1879). It follows that a duplicate receipt mentioned in this case is liable to a stamp of one anna under Article 23 (a) of Schedule I.”

(G. I., F. & C., No. 2153, dated 20th July 1883; *vide* G. R. No. 5885, dated 8th August 1883.)

20. The preceding order does not apply to documents kept merely for purposes of record. It seems clearly unnecessary that receipt stamps should be affixed to the so-called ‘duplicate receipts’ which are of the nature of office copies. (G. R. No. 6573, dated 15th August 1884.)

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21. A document such as that given in the margin appears to be an application from a principal to the Customs Collector, requesting his approval, under Section 202 of the Sea Customs Act, of the authorization of the person named therein to act at the Custom House as such principal's agent. For such an application a court-fee stamp of one anna is all that the law requires. (Act VII of 1870, Schedule II, Article I (a), paragraph I).

To
THE SIRKA'RKUN,
Broach Bandar.

SIR,—I, the undersigned, beg to state that A. B. has been appointed to act for me in your office. I request, therefore, that you will be good enough to allow him to work for me.

Dated

(Sd.) C. D.

An agent may receive his actual authority from his principal either verbally or in writing. The Customs Collector may, if he thinks fit, refuse, under paragraph 2 of Section 203 of the Sea Customs Act, to recognize an agent unless the principal deposits with him an authority in writing. Such an authority in writing, when one is executed, whether it is deposited with the Customs Collector or not, would require to be stamped in accordance with the General Stamp Act. But, unless the Customs Collector requires a written authority, there is nothing that prevents a principal and agent from being satisfied with a verbal authority, if they think fit. (L. R. No. 1127, dated 27th August 1884; *vide* G. R. No. 7247, dated 10th September 1884.)

22. The Mámílatdárs' Courts Act does not require defendants to file written statements, nor is it contemplated by that Act that a written statement should ever be put in. The Mámílatdár is apparently expected by examination of the defendant, or his pleader, to ascertain what his defence is. But if in a rare case the Mámílatdár permits the defendant to file a written statement, there is nothing in the Court Fees Act that renders such a statement liable to a court fee. If it takes the form of an application or petition, then, under the second paragraph of clause (b), Article 1 of Schedule II of the last-named Act, it will be liable to a court fee of 8 annas. (L. R. No. 168, dated 2nd February 1885; *vide* G. R. No. 1267, dated 11th *idem*.)

23. Collectors against whom suits are pending in the High Court may furnish a general power of attorney to the Government Pleader in that Court on plain paper, it being not necessary to execute it on stamped paper. But this ruling cannot be held to apply to vakilátnámás given by a Collector to a Government Pleader, for general powers of attorney are governed by the Stamp Act which specially exempts from stamp duty instruments executed by or on behalf of Government, while vakilátnámás are governed by the Court Fees Act, which contains no such exemption. Vakilátnámás given by Collectors, when such documents are necessary, are liable to the prescribed court fee. (G. Rs. Nos. 4683, dated 1st August 1877, and 2436, dated 11th May 1878.)

* *Vide* Rule 12 of the rules published under the G. of I. Notn. No. 2170, dated 22nd May 1891, printed at pp. 314—319 of the Compilation of General Rules.

24. The stamp duty on powers of attorney written in any other but the English language and executed out of British India should be indicated in the manner prescribed in Rule 11 of the rules* under the Indian Stamp Act, 1879 (promulgated under Financial Notification No. 196, dated 19th April 1879) which applies expressly to *all* documents executed out of British India excepting those therein indicated. (G. I., F. & C., No. 2471, dated 29th August 1879; *vide* G. R. No. 4809, dated 10th September 1879.)

25. The proprietors of large estates cannot claim exemption from the operation of the law in respect of stamp duty on their communications addressed to the Collector in the form of a letter, if of the nature of applications. (G. R. No. 3339, dated 20th May 1882.)

26. Clause 18 of the 2nd schedule to the Stamp Act is as follows:—

'Any instruments executed by or on behalf or in favour of Government in cases where but for the exemption the Government would be liable to pay the duty chargeable in respect of such instrument.'

This exemption clearly relates to instruments executed by or on behalf of Government or in its favour only in cases in which the Government would be chargeable with the duty like any private person but for the exemption.

Cheques drawn by Presidents or Secretaries of the Local or District Boards in their official capacity are clearly not instruments made on behalf of Government; consequently they do not come within the meaning of the exemption above quoted. The fact that the duty would come out of funds which are Government money, is irrelevant to the question submitted.

Suppose a deed is drawn in favour of a Government servant, but it is understood, though not mentioned in it, that such a Government servant is a trustee for the Government and the Government servant as a party to the instrument would have to pay the stamp duty (which would have to be recouped by Government) such a document would be liable to stamp duty, Government not being a party mentioned therein, though eventually the payment of the stamp duty would have to be made by the Government.

Under these circumstances the cheques in question are not exempt from duty, but are liable to the usual stamp duty. (Opinion of the Advocate General, Bengal, dated 6th August 1885; *vide* G. R., F. D., No. 2759, dated 26th September 1885, and G. M. No. 8250, dated 10th October 1885.)

27. Under Section 50 of the Local Boards Act, money required by a Local Board to provide or replenish a permanent advance can only be drawn from the Government Treasury by cheque. Rule 46 of the Bombay Local Boards' Rules* prescribes the form of cheque. It may be doubted whether this order is properly designated a cheque as defined in

* Printed at pp. 221—230 of the Compilation of General Rules.

the General Stamp Act, on the ground that, in the case of Local Funds which under Section 44 of the Act Government is bound to keep, it cannot be said to be acting as a banker. But even if this doubt is correct, the document fulfils the conditions of a bill of exchange as defined in Section 5 of Act XXVI of 1881 and is equally liable, if for more than Rs. 20, to a stamp duty of one anna under Article 11 (a) of Schedule I of the General Stamp Act.

There is no rule which requires the first cheque drawn for money required to begin a permanent advance to be accompanied by any receipt at all. In the absence of any such rule, any demand for a receipt seems irregular. It would be quite sufficient if the cheque were merely accompanied by a memorandum stating the purpose for which the money was required, but not in the form of a receipt. If, however, for any reason a written acknowledgment of the receipt of money (over Rs. 20) is given by the officer drawing the cheque, it must be stamped, as it appears to be a receipt as defined in the General Stamp Act.

As regards money drawn to recoup advances, Rule 45 prescribes exactly what documents must accompany the cheque, *viz.* a bill supported by sub-vouchers. There is nothing requiring the receipt of the officer who draws the money, and the bill which he sends in should not be in the form of a receipt. If for any reason he does give a written acknowledgment of receipt of money (over Rs. 20) it must be stamped, but his doing so seems quite superfluous.

For the reasons given by the Advocate General of Bengal (quoted in Government Resolution No. 2759,* dated 26th September 1885) documents executed by officers of Local Boards are liable to stamp duty. (L. R. No. 690, dated 20th May 1887; *vide* G. R. No. 4021, dated 2nd July 1887.)

* *Vide* order
26 (VIII) *supra.*

28. Receipts passed by Municipalities on account of house-tax and cesses, &c., for sums exceeding Rs. 20 are not exempt from stamp duty. Article 15 (b) of Schedule II to the Stamp Act exempts from stamp duty a receipt for payment of money "without consideration." The exemption was intended apparently to apply to receipts for "voluntary" payments, which in the ordinary legal acceptance of the term are payments without consideration, such as payments made merely in consideration of natural love or affection or mere gifts. But the receipts in question are for payment of house rate, &c., due to the Municipality under the Act constituting the Municipality. The payment is not gratuitous, but one in satisfaction or discharge of a legal obligation imposed by the Act, and in order to relieve the payer from the consequence which would ensue in case of his committing default, and is, therefore, not one without "consideration." (G. R. No. 5862, dated 1st September 1887.)

29. Security bonds executed by municipal servants are not exempt from stamp duty. (G. R. No. 3251, dated 21st May 1888.)

30. Anybody may write an ordinary letter to the Secretary to a Municipality without putting a court-fee stamp on it. Whether the Secretary is bound or empowered to *act* on such letters, is a different question. He may adopt the information afforded by them, and take, or suggest, official action thereon. But he is not *bound* to do so, and he might with equal propriety refer his correspondent to the municipal authorities who have powers to direct executive action which they cannot delegate. If on the informal correspondence failing to produce effect, an *application* desiring municipal action is made to the President or to any other municipal commissioner, that application must bear a one-anna stamp as required by paragraph 3 of Article 1 (a) of Schedule II to Act VII of 1870. Mere letters about conservancy, of which the Secretary or municipal officers may take what notice they please, are not liable to court fees. But applications to the Municipality or its members stand on a different footing and cannot be similarly ignored, and as they come clearly within the provision cited, they must be stamped. (L. R. No. 73, dated 14th January 1893; *vide* G. R. No. 960, dated 3rd February 1893.)

31. Under Section 79 of Act XV of 1872, every person solemnising a marriage and required under the Act to register the same, and every Marriage Registrar or Secretary to a Local Government having the custody, for the time being, of any register of marriages, shall, on payment of the proper fees, give a copy under his hand of any entry in any register of marriages in his custody. Such copies, or extracts certified to be true copies, or extracts by, or by order of, any public officer, and not chargeable under the Court Fees Act, are, unless granted for record in any public office or for any public purpose, liable to a stamp duty of 8 annas each under clause (a) of Article 22, Schedule I of the Indian Stamp Act, 1879, except in cases provided for in the Notification of the Government of India No. 1603,* dated 9th June 1882. A clergyman or priest not receiving pay from Government is when acting under Section 79 of Act XV of 1872 a public officer within the meaning of the above orders. Extracts from marriage registers furnished by such clergymen or priests are, therefore, not exempt from the payment of stamp duty. (G. I., F. & C., Nos. 1605, dated 9th June 1882, and 200, dated 13th January 1883; *vide* G. Rs. Nos. 6007, dated 1st September 1882, and 676, dated 25th January 1883.)

* *Vide* Article 6 (b) of the second Schedule to the G. of I. Notn. No. 2897 S. R., dated 7th June 1894, republished in the B. G. G. of 21st idem.

32. A one-anna receipt stamp is not required on endorsements on railway receipts sent through the Post Office under the value payable system. (G. I., F. & C., No. 5198, dated 29th September 1887; *vide* G. R. No. 7801, dated 14th November 1887.)

33. No formal application seems necessary either for the adjournment of an Income Tax appeal or to inform the Court that a compoundable offence (not being one under Sections 324, 335, 337 or 338, Indian Penal Code) has been compounded. In the case of offences under these four sections, formal application to compound appears necessary. To requests which need not be made as formal applications, the following paragraphs of High Court Circular 52A of 19th February 1884 appear applicable:—

‘As the law does not require any formal application to be made for the return of documents under Section 142 or Section 144 of the Code of Civil Procedure, they may be returned to the persons entitled to receive them on their oral request and on taking their receipt in writing in the usual form.

‘In case any such person chooses to make his request in writing, the paper, as this is optional, need bear no stamp.’

(L. R. No. 1582, dated 15th December 1887; *vide* G. R. No. 66, dated 5th January 1888.)

34. Under the following opinion of the Honourable the Advocate General of Bengal, shipping memoranda are essentially shipping orders, and are, therefore, liable to stamp duty as shipping orders:—

“The term ‘shipping order’ is not defined in the Stamp Act; but, from the words following the term in the schedule, it is clear that it is a document relating to the conveyance of goods on board a vessel. I am of opinion that it is immaterial what the exact form of words employed is, and think that any document made by a shipper and directed to the master of a vessel relating to the conveyance of his goods on board such vessel, which fulfils the functions of a shipping order, is a shipping order within the meaning of the Act, notwithstanding that the form of the document is not mandatory.”

(G. I., F. & C., No. 6577, dated 31st December 1889; *vide* G. R. No. 242, dated 11th January 1890.)

35. A question having been raised whether stamp duty was properly levied by the Custom authorities on a letter addressed to them enquiring whether customs duty was levied on silver articles when sent from India to England, the following opinion was recorded by the Honourable the Advocate General:—

“I think that Article 1A of Schedule II of the Court-fees Act does not apply to an enquiry of the kind contained in the letter in question, as it is not presented by any person having dealings with the Government, and does not relate to such dealings. It is simply a request for information which the Customs authorities might not be bound to comply with, but on which they had no right to require a stamp.”

(G. R. No. 1816, dated 8th March 1890.)

36. A court fee is leviable under Article 9 of Schedule I of the Court Fees Act in respect of all orders or proceedings passed after investigation under Bombay Act III of 1874. It may be doubted whether proceedings or orders under the Bombay Hereditary Offices Act come within the meaning of the word ‘Revenue’ used in Article 9 of Schedule I of

Act VII of 1870. But if an investigation has been made, they would be covered by the word 'Judicial' in that article (Section 71 of Bombay Act III of 1874). Purely departmental or office orders in which there is no investigation or appeal, such as orders under Section 64 (c) and mere orders to register facts already recorded according to law or under the orders of Government (Section 76) are of course not within the meaning of Article 9 of Schedule I of the Court Fees Act, as they are neither Revenue nor Judicial orders, and no copies of mere orders from an office unless they come under the description of an 'account, statement, report or the like,' are liable to fees. (L. R. No. 196, dated 16th February 1889; vide G. R. No. 1885, dated 9th March 1889.)

37. "Názirs are, I believe, in the habit of sending monies from time to time to Government Treasuries for safe custody and such monies are held by the Treasury officers in deposit until redrawn by the Názirs. For the purposes of such transactions, forms of a Pass Book and of a cheque are prescribed at pages 290 and 291 of the High Court Circulars, and I am clearly of opinion that in transactions of this nature between two Government officers no stamped receipt is necessary.

"If the case under reference was one of the above kind—as I think it must have been—no separate receipt was necessary at all. All that was requisite was an entry on the *Dr.* side of the Pass Book signed both by the Subordinate Judge and the Mámlatdár, and to this entry no receipt stamp need, I think, have been attached. If a separate receipt was passed or required, I do not understand why the occasion for it arose; but even assuming that it was necessary it would merely be an acknowledgment by one Government servant of the receipt of money which another Government servant had kept for him in safe custody, and it would not require to be stamped.

"Why, if the Subordinate Judge had determined that the money was forfeited to Government, he 'applied to the Mámlatdár for its repayment,' is another point which I find it difficult to understand. I should have thought that it would be sufficient for him to request the Mámlatdár to transfer the amount from the deposit account to the credit of Government under the head of 'Law and Justice,' or whatever may be the appropriate head for such receipts. But it seems probable that the Subordinate Judge intended the whole amount to be repaid to his Názir as a returned deposit, and then afterwards to remit it, *minus* 'the expenses of the sale,' if any, to the Treasury to be credited finally to Government. If this be the correct view of what took place, the receipt passed by the Subordinate Judge or by his Názir would still need no stamp. Viewed in any light, the transaction seems to have been nothing more than a transfer from the Treasury to the Court of money held by the former in

deposit for safe custody, and both parties to the transaction were acting in their capacity of officers of Government." (L. R. No. 1124, dated 3rd September 1880; *vide* G. R. No. 4858, dated 14th *idem*.)

38. When a Civil Court attaches money in the hands of Government, payable by Government to a person against whom a decree has been passed by the Civil Court, it is not necessary that the Civil Court should give to the Government officer in whose possession the money is, a receipt on a one-anna stamp before the money can be paid to the Court executing the decree. Such receipts are exempted from stamp duty under Article 15 (b) of Schedule II to the Stamp Act (I of 1879). If money which has been attached, under Section 272 of the Civil Procedure Code, is afterwards paid into the Court which attached it, the payment is a 'payment of money without consideration;' it is a mere transfer of the money from the custody of one authority to another, in order that the latter may disburse it to the party or parties entitled to it. (L. R. No. 519, dated 7th April 1892; *vide* G. R., J. D., No. 2443, dated 6th May 1892, and G. M. No. 4423, dated 25th *idem*.)

39. The memorandum of association of any society registered under Act XXI of 1860 (an Act for the registration of Literary, Scientific and Charitable Societies) does not require to be stamped. (G. I., F. & C., No. 2518, dated 22nd July 1890; *vide* G. R. No. 5606, dated 12th August 1890.)

40. No court fee is leviable on life certificates given to civil pensioners to satisfy the requirements of Article 1028 of the Civil Service Regulations. Such certificates may be granted by retired officials who before retirement exercised the powers of a Magistrate, as well as by Sub-Registrars and Magistrates, and do not fall within Schedule I of the Court Fees Act, 1870. Perhaps it may have been thought that the applications for such a certificate might fall within Article 1 (b), Schedule II, when presented to a Magistrate; but that article applies only to applications presented to Magistrates in their executive capacity. It would not apply to a request made to a Magistrate which might be made orally and which is made to him, not in his magisterial or executive capacity, but as it might be made to a retired Magistrate as a person of ascertained respectability and position. (L. R. No. 287, dated 25th February 1891; *vide* G. R. No. 1869, dated 12th March 1891.)

41. *Samachari chittis* serving the purposes of hundis or letters of credit are liable to stamp duty, and their execution on unstamped paper will render the writer liable to prosecution and punishment. (G. I., F. & C., No. 1757 S. R., dated 25th April 1893; *vide* G. R. No. 3523, dated 15th May 1893.)

IX.—AMOUNT OF DUTY LEVIABLE ON CERTAIN INSTRUMENTS.

1. Licenses under the Bombay A'bkari Act do not require to be stamped. Counterpart agreements executed under Section 31 of that Act, if not attested, require a stamp of eight annas under Article 5 (c) of Schedule I of the Indian Stamp Act, 1879. (L. R. No. 986, dated 25th August 1879; *vide* G. R. No. 4631, dated 1st September 1879; *vide* also G. R. No. 8916, dated 4th December 1893.)

2. A comparatively light stamp duty was fixed for an assignment of a lease under Article 60, Schedule I of the Stamp Act in consideration of the heavy duty to which the lease itself is chargeable under No. 39 of the schedule. It would be out of place in India to prescribe any special duty for agreements under seal, as the law attaches no artificial effects to sealing. There is no reason why agreements by way of guarantee or indemnity should be treated differently from other agreements. (G. I., F. & C., No. 3439, dated 29th October 1880; *vide* G. R. No. 6096, dated 18th November 1880.)

3. The practice of affixing a one-anna court-fee stamp to applications or petitions of the nature of reminders should be discontinued, and in future the full stamp duty authorized by law should be required thereon. (G. R. No. 6322, dated 13th September 1882.)

4. 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 passed by a Revenue Court within the meaning of Article 7, Schedule I of the Court Fees Act. For the purposes of certain sections of the Penal Code a formal or a summary inquiry under the Code is to be deemed (Section 196) a judicial proceeding, and the office of the authority holding such inquiry is to be deemed a Civil Court, but the order passed by a Revenue officer under Section 87 of the Code is not in any way binding upon the parties like a decree, and determines no question of right that may be at issue between them. To copies of such orders Article 9, and not Article 7, of the above schedule applies. (L. R. No. 391, dated 29th March 1883; *vide* G. R. No. 5630, dated 31st July 1883.)

5. If a deed of sale of a mortgage right were a transfer of an 'interest secured by a mortgage-deed' it would fall under Article 60 (b) of Schedule I of the Stamp Act. It is true that such a transfer is a 'conveyance.' The term 'conveyance' is defined by the Act, Section 3 (9), to mean 'an instrument by which property is transferred on sale.' But Article 21 of Schedule I, which covers 'conveyances' generally, expressly excepts conveyances which are transfers of the kind mentioned in Article 60. But if the mortgage interest transferred by the deed rested upon a verbal contract merely, or if it was an equitable

mortgage, Article 60 of Schedule I would not apply, and the deed of sale would fall under Article 21. (L. R. No. 1333, dated 3rd October 1883; *vide* G. R. No. 7828, dated 22nd *idem*.)

6. The marginally noted opinion of the Remembrancer of Legal

"A perusal of the correspondence confirms my opinion that the view taken by the Inspector General of Registration and Stamps is correct.

"2. The mistake committed by the Registrar is in saying that the property mortgaged by deed B consisted of two houses. It consisted of one house and a portion of another house. A lien was not created on property already hypothecated."

No. 2046, dated 25th July 1885, from that officer:—

"I have the honour to submit translations, marked respectively A and B, of two deeds registered some months since, the one in the Virangám, the other in the Parántij Sub-Registry Office in the district of Ahmedabad, concerning which, as regards the question of stamp duty, considerable correspondence has passed between the Registrar of Ahmedabad and myself, with the result that we cannot agree.

"2. Deed A I hold to be an instrument of further charge on which the stamp duty instead of being Rs. 5 should have, under the provisions of clause (a) of Article 30 of Schedule No. I of the General Stamp Act, amounted to Rs. 10, the sum advanced on mortgage being Rs. 1,000. I would shortly describe this deed as mortgaging without possession certain property not previously under hypothecation, and also at the same time *confirming (or mortgaging afresh) the hypothecation of two gardens previously mortgaged with possession.* It is on the latter circumstance that I rely in forming the opinion that the deed is an instrument of further charge on property already mortgaged with possession.

"3. Instrument marked B the Registrar of Ahmedabad holds to be on all fours as regards its character with instrument marked A, and it is on this point that I join issue with Mr. Reid. Instrument marked B purports to mortgage without possession certain houses and it recites the fact that a room in one of those two houses had previously been mortgaged with possession to the same mortgagee, but I do not understand that the present instrument again mortgages that room, and I rely on the following passages appearing in the deed for holding that opinion:—

'A room of this house No. 2 is in your possession under a deed of mortgage with possession previously executed to you * * * . The remaining portion of the said house * * * is given to you in mortgage without possession * * * * *'

'In consideration of the abovementioned amount, the whole of house No. 1, and out of the house No. 2 the front portion of the ground floor and *excepting the mortgage hak on the room* the remaining portion of the said house are given in writing in mortgage.'

"4. The Registrar of Ahmedabad agrees with me in thinking that on the first named deed a stamp of Rs. 10 is required, holding as I do that the instrument imposes a further charge on property already mortgaged with possession. In the second case he is apparently of opinion that the instrument while mortgaging without possession two houses, a room in one of which was previously mortgaged

with possession, creates a further lien on that room and that is the point on which we differ, he holding that the stamp on the latter deed should have been one of Rs. 2 on the sum of Rs. 140 received by the property hypothecated, I holding that the stamp duty of Re. 1 actually paid is sufficient, seeing that as I construe deed B the already hypothecated room is not again pledged as security for a further charge thereon.

"5. The Registrar having asked that the point should be submitted to the Legal Remembrancer for opinion, I have the honour respectfully to request that these papers may be placed before the latter officer."

(G. R. No. 7500, dated 16th September 1885.)

7. Ordinary licensed stamp vendors are not officers of Government within the meaning of Article 12 (b), Schedule II, Act I of 1879. The article would apply to the Government officers who are appointed *ex-officio* vendors under the rules framed under Section 55 of the Stamp Act.

The stamp necessary for a stamp-vendor's security bond is the amount required by Article 14, Schedule I, of the Stamp Act. (L. R. No. 1324, dated 2nd October 1884; *vide* G. R. No. 3107, dated 14th *idem*.)

8. Applications to a Collector under Section 22 of the Local Boards Act are liable to a court fee of eight annas under Act VII of 1870, Schedule II, Article 1 (b). (G. R. No. 3725, dated 8th May 1885.)

9. The record of a Sub-Registrar's reasons for refusing to admit a document to registration is not 'a revenue or judicial proceeding' within the meaning of Article 9, Schedule I of the Court Fees Act, and certified copies of such reasons are chargeable with stamp duty under Article 22, Schedule I of the Indian Stamp Act. (L. R. No. 394, dated 25th March 1886; *vide* G. R. No. 2752, dated 12th April 1886.)

10. A mukhtyárnáma which authorizes three persons to exercise all khoti privileges and to recover all khoti dues cannot be considered as authority to act in a single transaction. A document of such nature comes under Article 50 (c) of Schedule I of Act No. I of 1879, and should be written on a stamped paper of Rs. 5. (G. R. No. 1365, dated 3rd March 1887.)

11. Declarations of trust should be charged with stamp duty on an *ad valorem* scale, similar to that prescribed for bonds in Article 13 of Schedule I of the Stamp Act, subject, however, to a maximum duty of Rs. 15. (G. I., F. & C., No. 6766, dated 24th December 1887; *vide* G. R. No. 317, dated 17th January 1888.)

12. An application or petition, presented by a farmer of ábkári or opium revenue to a Collector, Assistant Collector or Mámílatdár requires a one-anna stamp. (G. R. No. 3174, dated 19th May 1888.)

13. An instrument evidencing an ordinary pawn transaction where money is borrowed on the pledge of moveable property, and the sum borrowed exceeds Rs. 20, should be stamped as a mortgage-deed

under Article 44 of Schedule I to the Stamp Act, 1879. (G. I., F. & C., No. 5232, dated 5th November 1890; *vide* G. R. No. 8405, dated 25th *idem*.)

14. A question having been raised as to the amount of stamp duty leviable on an application for license to manufacture 200 lbs. of fireworks under No. 31, read with Nos. 9 and 8, of the rules issued in Government Notification No. 4116, dated 5th July 1887, the Honourable the Advocate General expressed his opinion (No. 46, dated 21st May 1892) that the 3rd clause of Rule 9 was applicable and that a fee of Rs. 5 only was payable. (G. R. No. 4914, dated 11th June 1892.)

15. The following decision of the High Court of Calcutta as to the amount of stamp duty payable on the entrance certificates issued by the Uncovenanted Service Family Pension Fund, Calcutta, is to be acted upon in all similar cases:—

“ High Court of Judicature at Fort William in Bengal.

CIVIL APPELLATE JURISDICTION.

The 30th June 1892.

Present:

The Honourable Sir William Comer Petheram, Kt.,
Chief Justice.

The Honourable Henry Thoby Prinsep } Two of the
and } Judges of
The Honourable Jones Quaint Pigot, } this Court.

“ Reference under Section 46, Act I of 1879, from the Officiating Secretary to the Board of Revenue, Lower Provinces, No. 1587-B, dated 20th November 1891.

(Stamp Reference No. 13 of 1891.)

“ PETHERAM, *Chief Justice.*—The question referred to us by the Board of Revenue is what is the stamp which an entrance certificate under the rules of the Uncovenanted Service Family Pension Fund, Calcutta, should bear. By the contract which is evidenced by the document, the person to whom the certificate is issued in consideration of a money payment secures an income after his death for a time to another person, subject to certain contingencies; this is, I think, a contract of assurance, and the document which evidences such a contract is, I think, a life policy and is within Section 3 and Section 15 of the Stamp Act. The amount insured is quite uncertain, in every case, and it is impossible to predict whether anything or, if anything, what, will ever become payable by the fund under the contract, and the contract cannot, I think, be defined as an insurance for any particular amount, and therefore cannot be for an amount which exceeds Rs. 1,000. That being so, and it being an insurance, it must be a life policy for an amount which does not exceed Rs. 1,000, and the stamp duty on such an instrument is six annas.

“ It is, I think, clear that such an instrument as this is not within the scope of Section 25, sub-section (c) of that section, which is the only one within which it has been said to be included, deals with contracts under which, for some executed consideration, money becomes immediately due though payable by fixed periodical payments, and it is, I think, enough to say that that is not the present case, and there is no provision in the Act which can relate to the valuation of annuities secured by life policies.

"My answer to the question is that the stamp duty which an entrance certificate under the rules of the Uncovenanted Service Pension Fund should bear is six annas.

"PRINSEP, J.—I agree that, read with the rules of the Uncovenanted Service Family Pension Fund, this paper may be regarded as a life policy, and also that it does not come within Section 25 of the Act. We have not the means of ascertaining its value. That can be obtained only by such a calculation as is not open to us. In the absence of such information we must take it in the most favourable way to the person being taxed,—that is to say, we must assess it at the lowest possible value below 1,000 and it should, therefore, be assessed at six annas.

"PIGOT, J.—I agree."

(G. I., F. & C., No. 2460, dated 11th June 1892; *vide* G. R. No. 5551, dated 7th July 1892.)

* Printed at pp. 342—345 of the Compilation of General Rules

16. Clause 16 (a) of the Government of India's Notification No. 4650,* dated 10th September 1889, sanctioning reductions and remissions of court fees under Section 35 of the Court Fees Act, VII of 1870, does not apply in the case of a petition made to a Collector exercising the powers of a Commissioner under Section 27 of the Income Tax Act II of 1886. The court fee payable on such application or petition is eight annas under Schedule II (1) (b), paragraph 2 of the Court Fees Act, 1870. (G. I., F. & C., No. S. R.-3046, dated 15th July 1893; *vide* G. R. No. 5692, dated 7th August 1893.)

X.—DUTY IN PAUPER SUITS.

1. The only privilege of a person who is allowed by a Court to institute a suit *in forma pauperis* is, that he is not liable for any court fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit. There is apparently no law which exempts him from paying the stamp duty on any document which requires to be stamped under the provisions of the General Stamp Act. Unless, therefore, the case comes within clause

13† of Section 15 of the Act (No. 18 of 1869), duty must be paid. (L. R. No. 538, dated 10th June 1878; *vide* G. R. No. 3098, dated 19th *idem*.)

2. Article No. 167,‡ Schedule II, Act IX of 1871, does not apply to applications on the part of Government under Section 309§ of the Civil Procedure Code for the recovery of pauper costs, and no rule of limitation exists in respect of such applications. Section 309 directs that "Government shall recover such costs in the same *manner* as costs of suits are recoverable," but this refers only to the method of procedure. It is a well-established rule that the king is not bound by any statute, if he be not expressly named to be so bound (Broom's Legal Maxims, 5th Edition, page 72; Maxwell on the Interpretation of Statutes, p. 112). "Statutes of Limitation have always been held not to bind the Crown, except when named." (Maxwell on the Interpretation of Statutes, p. 117.) Act IX of 1871 contains a special provision for any suit in the name of the Secretary of State for India in Council, a period of sixty

† *Vide* Article 13, Schedule II, of the Indian Stamp Act, 1879.

‡ Cf. No. 179 of Schedule II of the Indian Limitation Act XV of 1877.

§ Cf. Section 411 of the Civil Procedure Code, 1882.

years being allowed as the period of limitation (Article 150,* Schedule II). But neither the Crown nor the Secretary of State is mentioned in connection with applications for execution. The East India Company no longer represents the Crown, and Section 24 of Statute 24 and 25 Vic., C. 67, expressly provides that no law or regulation made by the Governor General in Council * * * shall be deemed invalid by reason only that it affects the prerogative of the Crown. (L. R. No. 696, dated 19th October 1875; vide G. R. No. 6163, dated 1st November 1875.)

* Cf. No. 149 of Schedule II of the Indian Limitation Act XV of 1877.

3. Collectors are authorized to pass, without the sanction of Government, charges incurred in making applications or darkhāsts in Civil Courts for the recovery of stamp charges on behalf of Government from the parties concerned in pauper suits.

They may also, if they see sufficient cause, remit to the party from whom it may be recoverable after judgment, the stamp duty itself in such suits. (G. R., F. D., No. 3945, dated 14th September 1877, and G. R. No. 6820, dated 14th November 1877.)

XI.—KINDS OF STAMPS TO BE USED IN CERTAIN CASES.

1. Whereas copies or extracts certified to be true copies or extracts of baptismal, marriage, and burial certificates granted by ministers and marriage registrars are generally furnished on printed forms for which impressed sheets of stamped paper cannot be used without inconvenience; therefore in exercise of the powers conferred by Section 9 of the Indian Stamp Act, 1879, the Governor General in Council is pleased to make the following rule:—

The stamp duty payable under Article 22 of Schedule I to the Indian Stamp Act, 1879, on copies or extracts certified to be true copies or extracts of baptismal, marriage, and burial certificates shall be denoted by means of adhesive court-fee labels.

(G. I., F. & C., Notification No. 2036, dated 30th June 1882, republished in the *Bombay Government Gazette* of 6th July 1882.)

NOTE.—The officer issuing the certificates should cancel the adhesive court-fee label affixed thereto by writing his name across it. (G. I., H. D., No. 3—173—187, dated 11th September 1882; vide G. R. No. 6722, dated 28th idem.)

2. India Revenue (Receipt) stamps should be used for proxies given by females at Local Board elections. (G. R. No. 1747, dated 28th February 1885.)

3. Promissory notes drawn or made in British India and chargeable with a duty of more than one anna are not among the instruments that may be stamped with impressed labels; the legal and regular method of paying the stamp duty is by the use of impressed sheets, or in the cases of 6, 10 and 12 annas, for which no impressed sheets exist, by the use of hundi stamps. (G. I., F. & C., No. 6623, dated 15th December 1887; vide G. R. No. 302, dated 14th January 1888.)

XII.—INSTRUMENTS NOT DULY STAMPED.

1. Copies requiring to be stamped under Act VII of 1870 are not of any validity unless properly stamped, and cannot be furnished or received by any public officer. (G. I., F. D., No. 231, dated 18th January 1877; *vide* G. R. No. 534, dated 27th *idem*.)

2. The period during which an instrument remains impounded under the provisions of Chapter IV of the Stamp Act, 1879, cannot be deducted in computing the period of limitation mentioned in Section 34 of the Registration Act, 1877. In the case of all impounded instruments forwarded to the Collector by Registrars and Sub-Registrars under Section 33 of the Stamp Act the adjudication should be made by the Collector with as little delay as possible. (L. R. No. 1524, dated 22nd December 1881; *vide* G. R. No. 128, dated 10th January 1882.)

3. The procedure to be followed in enforcing the payment of insufficient stamp duty and penalty with respect to instruments sent to Collectors under clause 2 of Section 35 of the Indian Stamp Act, 1879, is that laid down in the letter from the Government of India No. 4310,* dated 28th October 1875. (G. R. No. 3016, dated 28th April 1893.)

* *Vide* order 1 (XIII) *infra*.

XIII.—ADJUDICATION AS TO STAMPS.

1. When the Collector has received a document and given his opinion under Section 39† of the Stamp Act XVIII of 1869, and the presenter of the document thereafter declines to pay the full sum adjudged, the Collector may consider the instrument as having been presented under Section 23.‡ He must then first consider whether there is a case for prosecution under Section 29§ or 36, and if he determines to prosecute he can detain the instrument, but if he does not intend to prosecute he should return the instrument to the owner. (G. I., F. D., No. 4310, dated 28th October 1875; *vide* G. R. No. 6336, dated 11th November 1875.)

† *Vide* Section 30 of the Indian Stamp Act, 1879.

‡ *Vide* Section 33, *ibid*.

§ *Vide* Section 61, *ibid*.

2. In all such prosecutions Collectors should bring to the notice of the Magistrate the loss of revenue due to the non-stamping of the instrument. (G. R. No. 2641, dated 14th April 1893.)

¶ Cf. Rule 17 of the rules under Sections 9, 15, 17, 32, 51 and 56 of the Indian Stamp Act published under G. of I. Notn. No. 2170, dated 22nd May 1891, printed at pp. 314—319 of the Compilation of General Rules.

3. It is clear that Rule 15|| of the Rules under the Indian Stamp Act I of 1879 laid down in the Government of India's Notification No. 875, dated 26th February 1881, is a rule under Section 32, and relates solely to the fee under Section 30. As to the duty on instruments brought to the Collector under Section 30, it is said in Section 31 that the duty determined by the Collector may be *paid*, and when the Collector has certified by endorsement on the instrument that the full duty chargeable has been paid, the instrument so endorsed "shall be held to have been duly stamped." The Collector appears to hold that these words point to a payment in cash. But Section 9

says that, except in specially excepted cases, all duties shall be paid by means of stamps, and Section 31 does not specially provide that the duty paid under it shall be paid in cash. The duty under Section 31 should, therefore, be paid by means of stamps, and such payment should be indicated on the instrument by the stamps used. (G. R. No. 5568, dated 26th September 1881.)

.4. In the case of such an agreement as that executed by P. R. A. to H. R. A. for a term of 11 years stipulating to pay annually 4 khandis of Dodka or Ghonsalvel rice in husk and 1,050 bundles of hay, the stamp duty should be fixed by the Collector under paragraph 3 of Article 39 (a) of Schedule I of the Stamp Act in accordance with what he considers to be 'the value of the average annual rent reserved.'

The practice followed by the officers of the Registration Department in cases of instruments like the one in question is to draw the attention of the parties presenting such deeds to Section 27 of Act I of 1879 which requires that 'the consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty shall be fully and truly set forth therein' and to the penalties imposed by Section 63 of the same Act. This leads to the defect in documents being supplied, that is, the value of the consideration is shown therein and the stamp duty determined accordingly. In cases in which the parties refuse to express the money value, the documents are forwarded to the Collector of the district for the adjudication of the proper stamp duty leviable thereon. This is a very reasonable practice. (L. R. No. 10 B., dated 26th January 1883; *vide* G. R. No. 1238, dated 16th February 1893.)

XIV.—COMPOSITION OF STAMP DUTY.

1. The Presidency Municipalities, the Trustees of the Port of Bombay, and the Commissioners for making improvements in the Port of Calcutta are empowered, by the enactments constituting or incorporating them, to borrow money for certain purposes by way of debenture, on the security of the rates, taxes or dues which they are authorized to levy or impose.

Under the Local Authorities Loan Act, other bodies corporate and Municipalities may also be authorized to borrow money upon the security of the funds which they administer, or the taxes which they levy.

The bonds or debentures issued by all these bodies, and coupons issued with such debentures are, in the absence of any special exemption, chargeable with stamp duty, at the rate of about $\frac{1}{2}$ per cent.

The question whether stamp duty is chargeable on the renewal and sub-division of such debentures, is open to argument; but whether stamp duty is chargeable in such cases or not, the interests

of the stamp revenue necessitate the attendance of the parties at the office of the Collector of Stamp Revenue, in order to the stamping (without charge) of the new debentures. The Government of India is not willing to relieve such debentures altogether from the payment of stamp duty; but it is prepared to exempt coupons issued with them from the separate payment of duty, and is anxious to remove, as far as is compatible with the due protection of the stamp revenue, the inconvenience occasioned to the debenture-holders by the necessity for attendance at the Stamp Office on each case of renewal or sub-division.

His Honour the President in Council thinks that these objects may be attained if the above-mentioned bodies corporate are willing, on the issue of any debentures, to compound for the stamp duty chargeable thereon by the payment in a lump sum of $\frac{1}{2}$ per cent. on the total amount of the loan. There is no special provision in the law authorizing such a composition; but, on payment by any of the corporate bodies referred to, under such a composition, the Government of India will exempt* the debentures from any stamp duty with which they might otherwise be chargeable whether on issue, renewal or sub-division.

The payments made under such compositions will be credited to stamp revenue.

The serial number, amount and date of each of the debentures issued should be communicated to the Government of India to enable them to issue the needful notification exempting the debentures from the payment of stamp duty under these orders. (G. I., F. & C., Nos. 3646, dated 13th November 1880, and 3323, dated 6th October 1881; *vide* G. Rs. Nos. 6472, dated 8th December 1880, and 6273, dated 25th October 1881.)

2. Cheques issued by Local Boards do not come within the exemption contemplated in the foregoing orders. (G. R. No. 1025, dated 21st December 1885.)

XV.—REFUNDS.

1. Local Governments are authorized to allow refunds or renewals of spoiled or useless stamps, or the repurchase of stamps not required, provided that application for renewal or refund be made within one year from the date of purchase of the stamp, or one year from the date on which the stamp has been spoilt, or rendered useless. (G. I., F. & C., No. 125, dated 14th January 1881; *vide* G. R. No. 601, dated 28th *idem*.)

2. The Commissioners in the Bombay Presidency, the Superintendent of Stamps, Bombay, and the Political Resident, Aden, are authorized to grant the refund of the value of spoilt or useless general

* For the exemptions sanctioned by the Government of India under this provision *vide* Article 7 (c) of Second Schedule to Government of India Notification No. 2897 S. R., dated 7th June 1894.

stamps in cases in which application for the refund is made after six months, but within one year from the date of the purchase of the stamp or from the date on which the stamp is spoilt or rendered useless. (G. I., F. & C., Nos. 3926, dated 23rd October 1883, 2075, dated 31st December 1883, and 445, dated 25th April 1885; *vide* G. Rs. Nos. 8409, dated 15th November 1883, 338, dated 14th January 1884, and 3938, dated 16th May 1885.)

3. The Commissioner in Sind, the Commissioners of Divisions, the Superintendent of Stamps, and the Political Resident at Aden are authorized to exercise, within their respective charges, the power conferred by the Government of India on the Local Government of granting refunds of the value of impressed court-fee stamps and court-fee adhesive labels. (G. R. No. 819, dated 6th February 1888.)

NOTE.—By Government Resolution No. 1037, dated 7th February 1891, the power granted to Commissioners by the Resolution of 6th February 1888 has been delegated to Collectors.

4. "I am directed to acknowledge the receipt of your letter No. 6099, dated the 27th July 1892, and of its enclosures, regarding an application from Messrs. _____ for refund of the value of certain spoiled stamps amounting to Rs. 283.

"Under the law, applications for refund should be made within six months from the date on which the stamps were purchased, spoiled or rendered useless. In order to meet cases of undue hardship, this period was extended to twelve months by the Resolution in this Department No. 125*, dated 14th January 1881. In the present case, it appears that the stamps were spoiled or rendered unfit for use in each case more than one year, and in some instances more than six years, before an application for refund was made to the Collector of _____, and no satisfactory explanation is given of the cause of the delay. In many cases, too, the stamps become useless merely because by careless keeping they were torn or soiled. Such a case as this is not of the kind contemplated when provision was made for the refund of the value of spoiled or useless stamps, and the Governor General in Council is unable to sanction the refund applied for.

* *Vide* G. R. No. 601, dated 28th January 1891, order 1 (xv) *supra*.

"As regards the suggestion made by the Commissioner in Sind that applications of the kind might, in future, be made by applicants to the Government of India direct, I am to state that the Government of India prefers that they should be submitted through the Local Government." (G. I., F. & C., No. S.R.-3314, dated 10th August 1892; *vide* G. R. No. 7042, dated 5th September 1892.)

5. Sections 52 and 54 of the Indian Stamp Act, 1879, apply to all kinds of stamps used under that Act, but great caution should be used in refunding the value of "adhesive labels." (G. I., F. D., No. 911, dated 6th June 1879; *vide* G. R. No. 3300, dated 23rd *idem*.)

6. The words 'deducting one anna for each rupee or fraction of a rupee' which occur in clause (c),

Section 53 of the Indian Stamp Act, 1879, are not applicable to clauses (a) and (b) of that section. Those words are applicable to clause (c) only.

(2) The distinction between clauses (a) and (b) and (c) is pointed.

(3) Clauses (a) and (b) are applicable to cases where fresh stamps are given in lieu of spoiled or misused stamps, but such new stamps when so given are in (a) case to be of the same 'description and value,' and in (b) case of any other 'description to the same amount in value,' so in each of these (a) and (b) cases the *same* value of the spoiled stamps is to be given and no deduction is provided for, whereas in (c), which provides for a money return, 'the same value in money, deducting one anna for each rupee or fraction of a rupee,' is to be given.

(4) The words 'deducting one anna for each rupee or fraction of a rupee' can refer only to the preceding words 'the same value in money' as the thing from which the deduction is to be made.

(5) Section 54 aids this construction.

(6) The effect of Section 53 may be summarized thus:—Where fresh stamps are given in exchange for spoiled or misused stamps, stamps of the same value as the spoiled or misused stamps are to be given and no deduction made, but where money is given in exchange for spoiled or misused stamps, a deduction of one anna is to be made from each rupee or fraction of a rupee of the value of such spoiled or misused stamp. (Adv. Gen. No. 106, dated 12th November 1880; *vide* G. R. No. 6471, dated 8th December 1880.)

7. As the words used in Section 53 of the Stamp Act 'in any case in which allowance is made for spoilt or misused stamps' are in the plural, the practice of deducting one anna in the rupee on the aggregate value of the stamps, and not on the value of each separate stamp tendered, is most in accordance with the apparent intention of the Legislature. In the cases falling under Section 54 also the deduction should be on the aggregate value. (G. Rs. Nos. 1519, dated 22nd February 1883, and 9035, dated 16th November 1892.)

8. When the Collector of a District sanctions a refund or renewal he should then and there record his reasons for granting such refund or renewal, should punch or mark the stamped paper in such a way that it can never be presented again, and should then forward it for destruction to the Superintendent of Stamps. (G. I., F. D., No. 3767, dated 23rd October 1873; *vide* G. R. No. 6077, dated 4th November 1873.)

* *Vide* Rule 18 of the rules published in the G. of I. Notn. No. 2170 of 22nd May 1891, printed at pp. 314—319 of the Compilation of General Rules

9. No. 14* of the rules under the Stamp Act, 1879, laid down in the Government of India's Notification No. 196, dated 19th April 1879, does not require that the affidavits and depositions should be put in or made before the Collector himself personally. As the duties in question are rather ministerial and formal than judicial, there is no legal objection to

the Collector delegating the inquiry, if he thinks it necessary or expedient, to a Mámlatdár or Mahálkari, provided that he passes the final order himself. (L. R. No. 28, dated 5th January 1880; *vide* G. R. No. 211, dated 14th *idem*.)

10. In the case of an impressed stamp which has been spoiled by an agreement having been written upon it which the person who was to have executed that agreement in his own sole name subsequently refused to sign, the proper course is to deal with the case under Section 54 of the Stamp Act. That section applies to stamps for which the owner has no immediate use and which have not been spoiled or rendered unfit or useless *for the purpose intended*. This is precisely the case in question. The stamp is spoiled and rendered unfit and useless for any other purpose, but not for the purpose for which it was intended to be used, and the owner of it has no immediate use for it. Probably this section was primarily intended to apply when a stamp had not been used or spoiled at all, but it is so worded—perhaps intentionally—as to cover both cases. (L. R. No. 278, dated 1st March 1881; *vide* G. R. No. 1480, dated 12th *idem*.)

11. The heir of a deceased person has a right to claim a refund on a spoiled stamped paper which has come into his possession as heir. (G. R. No. 1073, dated 15th February 1882.)

12. Section 17, clause (b) of the Arms Act, XI of 1878, empowers the Governor General in Council to fix a fee payable in respect of a license “granted;” and it seems doubtful whether the fee can properly be retained when such application is refused. In the event, therefore, of an application for a license under the Arms Act, bearing the requisite fee in the shape of impressed stamps, being refused by the Executive authorities, a refund of the stamp fee paid should be allowed. (G. I., H. D., No. 30-1086, dated 10th June 1879; *vide* G. R. No. 3277, dated 21st *idem*.)

13. An application for a license under the Petroleum Act VIII of 1881 should bear the stamp suitable for an application, and the stamp for the license should be separate. If the application is refused, the refund of the cost of the stamp for the license may be claimed under Section 54 of the Stamp Act, 1879. An application should not be made on a stamped paper intended for the license, but where such a procedure has been wrongly allowed, a refund of the stamp fee *minus* the value of the stamp which should have been affixed to the application, and *minus* also the deductions prescribed in Section 54 of the Stamp Act, may be granted. (G. I., H. D., No. 813, dated 4th May 1888; *vide* G. R. No. 3366, dated 25th *idem*.)

14. Refund of the value of stamps affixed to bills of exchange which have been used as cover and sent to home firms or home partners or directors, who are payees, should not be granted. (G. I. F. & C., No. 2996, dated 17th June 1889; *vide* G. R. No. 4967, dated 11th July 1889.)

15. The Collector being a person empowered by law (*viz.*, by the Stamp Act and the Rules made under it) to take evidence has authority under Section 4 of the Indian Oaths Act, 1873, to administer an oath. The proceeding before the Collector under Section 51 of the Stamp Act may not perhaps be a judicial proceeding within the meaning of Section 193 of the Penal Code. That section, however, is not confined to cases of giving false evidence in judicial proceedings, and in the opinion of His Excellency the Governor General in Council, the punishment provided for giving false evidence in cases other than judicial proceedings is likely to be ample for the purposes of the enquiry regarding refunds of the value of spoilt stamps. (G. I., F. & C., No. 2695, dated 13th September 1879; *vide* G. R. No. 5212, dated 29th *idem*.)

* *Vide* order
8 (xv) *supra*.

16. Stamps sold to the public, when returned, will generally be more or less soiled or disfigured, and should not be re-issued. If a refund of the value of any such stamp is granted, the Collector should follow the course laid down in the Government of India's Circular No 3767, dated 23rd October 1873 (*vide* G. R. No. 1077,* dated 4th November 1873). Those stamps, however, which are taken back from a stamp vendor or his heirs may be placed in store and re-issued. (G. I., F. D., No. 6295, dated 16th November 1874; *vide* G. R. No. 6429, dated 5th December 1874.)

17. The Government of India authorize the refund of probate duty when the Administrator General of Bombay shows that the registered claims against an estate amounts to such a sum as, if they had been paid debts, would have entitled him to a refund of stamp duty under the provisions of Section 19 B of Act XIII of 1875. (G. I., F. D., No. 3168, dated 19th December 1876; *vide* G. R. No. 41, dated 5th January 1877.)

18. Under Section 13 of the Court Fees Act, 1870, an appellant is entitled to receive from the Collector the full amount of court fee paid on the memorandum of appeal without any deduction on production of the certificate of the Appellate Court, and no further sanction is necessary for the refund of such fee. (G. R. No. 8912, dated 13th December 1890.)

†Printed at
p. 345 of the
Compilation
of Genera.
Rules.

19. The rules for the refund of the value of court-fee stamps circulated with Government Resolution No. 819,† dated 6th February 1868, do not appear to contemplate the return of the value of stamps which have been cancelled; for Section 30 of Act VII of 1870 indicates that a document bearing a court-fee stamp should not be acted upon in any way until the stamp is cancelled, and the fact of a stamp being cancelled is, therefore, evidence that it has been used. (L. R. No. 1975, dated 5th December 1891; *vide* G. R. No. 8896, dated 23rd *idem*.)

20. Stamp duty on a plaint in any suit in which a Civil Court may decide, after once admitting the plaint, that it has no jurisdiction and which, after such decision, the plaintiff does not for any cause

wish to prosecute elsewhere, should not be refunded. It is a case unlikely to occur frequently that a plaint will be presented to a Court not having jurisdiction, that the plaint will be at first admitted but afterwards returned on the ground of no jurisdiction, and that the plaintiff will then elect to abandon his claim. Even under the circumstances, the plaintiff will have put the Court in motion and obtained a decision of the question of jurisdiction, and it is, therefore, not expedient to take any special measures to relieve the plaintiff from the payment of the stamp duty necessary in such cases. (G. I., F. D., No. 5079, dated 19th August 1874; *vide* G. R. No. 4702, dated 1st September 1874.)

21. Section 42 of the Indian Stamp Act does not require that the application on which the Chief Revenue Authority may refund a penalty should be made to the Chief Revenue Authority himself. That section only requires (a) that the application should be made in writing within one year, and (b) that the refund should be made by the Chief Revenue Authority.

A comparison of Section 42 with Section 36 leads to the conclusion that the Legislature did not require the application under Section 42 to be made direct to the Commissioner.

For Section 36 expressly requires that an application on which the Collector may act must be made *to him*, but specifies no period within which it must be made, and does not require it to be in writing.

While Section 42 does not require the application to be made to the Commissioner, but does specify the period within which it must be made, and requires that it should be in writing.

The inference is that an application, for refund, to the Collector may be made to him at *any* time, but that if the Commissioner is to exercise his power of making a refund of the *whole* penalty, then the application must have been made (though not necessarily to him direct) (a) in writing, and (b) 'within a year from the date of the payment.' (L. R. No. 1789, dated 29th December 1892; *vide* G. R. No. 2979, dated 27th April 1893.)

XVI.—REMISSIONS AND EXEMPTIONS.

1. Court fees can only be remitted under Section 35, Act VII of 1870, by the Governor General in Council. No order has hitherto been made under that section, remitting the fee payable by a pauper who wishes to make an application to a revenue officer. But it is not absolutely necessary that there should be an application from the person entitled to succeed as heir to a deceased inámdár in order that the Mámílatdár may have authority to enquire and determine whose name ought to be substituted in his records for the name of the deceased. There would be no illegality in the Mámílatdár's starting such an inquiry *proprio motu* and taking the statement of the would-be applicant, if necessary; and this course

may be adopted in cases in which there is sufficient proof that the person claiming to be recognized as heir to an inám or khálsa holding is unable to pay the requisite stamp duty on a formal application for the purpose. (L. R. No. 929, dated 12th July 1883; *vide* G. R. No. 5712, dated 2nd August 1883.)

* *Vide* Article 6 (b), Schedule II, to G. of I. Notn. No. 2897 S. R., dated 7th June 1894.

2. A statement signed by the officer issuing the certificate referred to in the notification* of the Government of India No. 1603, dated 9th June 1882, should be made thereon showing the grounds on which such certificate is issued without the payment of stamp duty. (G. I., H. D., No. 3-173-187, dated 11th September 1882; *vide* G. R. No. 6722, dated 28th *idem*.)

† *Vide* clause 9 (d) of the Second Schedule to G. of I. Notn. No. 2897 S. R., dated 7th June 1894.

3. The exemption specified in clause 8 (c) of the Second Schedule annexed to the Notification† of the Government of India No. 5855, dated 22nd November 1889, showing the instruments exempted, under Section 8 of the Indian Stamp Act, I of 1879, from the payment of stamp duty, covers leases and counterparts in the case of Kasbatis. (L. R. No. 568, dated 20th April 1892; *vide* G. R. No. 3908, dated 5th May 1892.)

4. In exercise of the powers conferred by Section 35 of the Court Fees Act (VII of 1870) the Governor General in Council is pleased to remit in the Presidency of Bombay the fees chargeable under Article 1, clauses (b) and (c) of Schedule II of the said Act on applications made to a Collector or other Revenue officer or to any Chief Controlling Revenue or Executive authority for permission to cut and remove junglewood for fuel or thorns for fencing from lands which are unalienated and unoccupied within the meaning of the Bombay Land Revenue Code, 1879. (G. I. Notn. No. S. R.-2325, dated 1st June 1893; *vide* G. R. No. 4588, dated 26th *idem*.)

‡ Republished at pages 807 to 810 of Part I. of the B. G. G. of the 19th September 1889.

5. In exercise of the power conferred by Section 35 of the Court Fees Act, VII of 1870, and in supersession of the orders contained in clause 6 (under heading A) of the notification in the Department of Finance and Commerce No. 4650‡ dated the 10th September 1889, the Governor General in Council is pleased to direct that the fee chargeable on appeals from orders under clause (c) of Section 244 of the Code of Civil Procedure (Act XIV of 1882) shall be limited to the amounts chargeable under Article 11 of the second schedule to the Court Fees Act, 1870. (G. I., F. & C., Notn. No. 4344-S.R., dated 6th October 1893, republished under G. N. No. 7435, dated 11th *idem*, at page 952 of the B. G. G. of 12th *idem*.)

XVII.—CANCELLATION OF STAMPS.

1. The importance of punching out from the stamps the figure-head and destroying the piece before taking action upon the documents to which the stamps may be attached, should be impressed upon all Courts and officers who have to deal with

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court-fee stamps. (G. I., F. D., No. 831, dated 31st January 1874; *vide* G. R. No. 868, dated 17th February 1874.)

2. It is desirable that the responsibility of officers presiding over Courts to satisfy themselves that all stamps affixed to documents in their respective Courts are properly defaced, should be strongly impressed upon them. (G. R. No. 2357, dated 13th April 1877.)

3. Government must impress upon heads of offices the necessity of taking strict measures to enforce the rule regarding the punching of stamps, and will notice with displeasure any omissions reported hereafter. (G. R. No. 3986, dated 20th June 1882.)

4. The Inspector-General of Registration and Stamps should in his annual reports regarding the stamp inspection work performed by his Department specify the offices in which stamps were found unpunched. (G. R. No. 7088, dated 5th September 1884.)

5. Under Act VII of 1870, Section 30, court-fee labels are cancelled by punching out the figure-head, but the Record-keeper of every Court should, when a case is decided and the record consigned to his custody, punch a second hole in each label distinct from the first and note the date of his doing so at the same time. The second punching should not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature. These directions apply only to adhesive labels used under the Court Fees Act, and impressed stamps used for denoting court fees need not be cancelled or punched otherwise than as required by Section 30 of the Court Fees Act. (G. I., F. D., No. 1763, dated 24th July 1873; *vide* G. R. No. 4481, dated 5th August 1873; and G. I., F. & C., No. 3047, dated 5th September 1883; *vide* G. R. No. 7419, dated 5th October 1883.)

6. Section 26 of the Court Fees Act contemplates that the stamps to be used to denote any fee chargeable under that Act may be either impressed or adhesive or partly impressed and partly adhesive; and yet Section 30 enacts that the stamp is in every case to be cancelled before the document which bears it is acted upon in any Court or office. From this the necessary inference is that the Legislature intended the figure-head of the stamp to be punched out, whether the stamp is adhesive or impressed, and this direction of the law is binding upon all Courts and officers. (L. R. No. 1046, dated 3rd August 1883; *vide* G. R. No. 6641, dated 8th September 1883.)

7. Section 30 of the Court Fees Act, VII of 1870, does not justify the cancellation of the stamp on a document the moment the document is presented; and it is only necessary for a Court or officer to cancel the stamp when the document is about to be

filed or acted upon. It follows that if an appeal or application is not accepted by reason of its being time-barred or for other *prima facie* reason, the Act does not authorize the cancellation of the stamps which it bears. (L. R. No. 888, dated 2nd July 1884; *vide* G. R. No. 6267, dated 4th August 1884.)

8. The interpretation of Section 30 of the Court Fees Act contained in the following extract from a letter from a Subordinate Judge, in so far as it applies to copies of documents deposited in his Court, like the two therein referred to, pending his decision as to whether they shall be received, *i. e.*, filed and acted upon or not, is correct:—

“Paper marked L in Suit No. 165 of 1889 is a copy of a Magistrate’s order put in by the defendant along with his written statement.

“Paper marked C in Suit No. 147 of 1889 is a copy of an order passed in a miscellaneous proceeding and was produced under Section 138 of the Civil Procedure Code.

“These papers were kept along with the lists of papers with which they were produced and simply marked for identification. They will not be filed or acted upon in any way unless and until they are found relevant, and either admitted or proved. The Court will have no power to look at them so long as the formalities above indicated have not been gone through. If the parties fail to fulfil these necessary conditions, these papers will have to be returned to the parties producing them, and in that case their copies are not by law required to be kept on the record; whereas a document which has been filed and thus acted upon cannot be returned without a copy under Section 144 of the Civil Procedure Code. The first paragraph of Section 30 of the Court Fees Act requires that before a document is filed or acted upon, its stamp should be cancelled. The second paragraph indicates the mode of cancellation, and requires that the head of the office should appoint an officer who is to effect the cancellation. If the two paragraphs of Section 30 are read together, it would appear that the direction to forthwith cancel the stamp on ‘receiving’ a document has reference to the receiving of the document in evidence and placing it on the record, and has nothing to do with the mere production of the document and its being marked for the purpose of identification. A perusal of Sections 138 to 144 of the Civil Procedure Code would lead also to the same conclusion.”

(L. R. No. 994, dated 11th June 1891; *vide* G. R. No. 4232, dated 22nd *idem*.)

9. The Court or Office issuing copies, certificates, or other similar documents liable to stamp duty should, before issue, cancel the labels affixed to them by punching out a portion of the label in such a manner as to remove neither the figure-head, nor that part of the label upon which its value is expressed. As an additional precaution, the signature of the officer attesting the document, with the date, should be written across the label and upon the paper on either side of it as is frequently done by persons signing stamped receipts. (G. I., F. D., No. 3373, dated 24th September 1875; *vide* G. R. No. 5802, dated 14th October 1875.)

Note.—This ruling has been extended to all documents received in a Court by G. R., J. D., No. 5646, dated 11th September 1882; *vide* G. M. No. 6851, dated 3rd October 1882.

10. It should be laid down for the guidance of Treasury and other officers concerned, in making payments for which stamped receipts have to be taken, that in cases in which for any reason the stamps have not, in his opinion, been properly cancelled by the persons tendering the receipts, the officer receiving the documents should either punch the stamp or cancel it himself by inscribing his initials and the correct date of cancellation on (not across) the stamp, or should see that they are properly punched or cancelled before recording the document.

As confusion might arise, owing to different native eras and dates being used in inscribing the date of cancellation, the English (Gregorian) date should be put with the month indicated, either by name or a figure denoting its order in the series of 12: thus the 7th May 1885 or 7-5-85. (G. Rs. Nos. 5993, dated 24th July 1884, and 8359, dated 23rd October 1884.)

11. In order to prevent the fraudulent re-use of one anna adhesive stamps affixed to hundis, the drawers of hundis should be required to cancel the stamps affixed thereto by writing across them the date of cancellation, in addition to their signatures. This measure is within the provisions of Section 11 of the Stamp Act, 1879, and is not likely to cause any inconvenience to bankers or to the public in general. The Collectors should issue the requisite notifications in English and in the vernacular languages, giving publicity to these instructions and at the same time cautioning the purchasers of hundis against the risk which they incur by accepting documents to which used stamps are affixed, and enjoining on them the necessity of carefully examining such stamps. (G. R. No. 3369, dated 22nd May 1882.)

12. "The only legal means by which the public revenue can be protected against the probable results of non-cancellation or of insufficient cancellation of adhesive stamps is the prosecution of offenders. This would direct public attention to the requirements of the law. But it would always be a matter of opinion as to what constitutes a cancellation sufficient to prevent stamps from being used again, and I would not recommend a prosecution in any case in which there has been a *bond fide* attempt to obey the requirements of the law, because no doubt a sufficient cancellation could be effected in many different ways. Any cancellation which prevents a stamp being used again, except by resort to a fraudulent imitation or reforming of certain written or stamped characters, would, I think, be held by the Courts to be a sufficient compliance with the Stamp Act." (L. R. No. 910, dated 7th July 1884; *vide* G. R. No. 5993, dated 24th *idem*.)

XVIII.—FRAUDS AND FORGERIES.

I. Instances of forgery or fraudulent use of any description of stamps, whether General, Judicial, Postal or Telegraph, coming to the notice of the

local authorities should be immediately reported for communication to the Government of India. Such reports should invariably be accompanied by full particulars as to the nature of the forgery or fraud perpetrated, and if possible by specimens, and should be forwarded immediately, with any remarks which occur to the Local Government, to the Government of India in the Finance Department. (G. I., F. D., No. 3635, dated 7th October 1875; *vide* G. R. No. 6079, dated 27th *idem*.)

2. Mere ordinary cases of the fraudulent use of postage labels—such, for instance, as the use a second time of an obliterated label—need not be specially reported to the Government of India, unless there is some peculiarity about the case which makes it important. The discovery of any *forged* postage labels should be immediately reported. (G. I., F. D., No. 545, dated 26th May 1876; *vide* G. R. No. 4211, dated 22nd July 1876.)

3. The Governor General in Council is willing to forego the report of cases of the fraudulent re-use of stamps, except when the circumstances are novel or important. But forgeries or fraudulent alteration of stamps should always be reported to the Government of India. (G. I., F. & C., No. 1970, dated 18th December 1879; *vide* G. R. No. 54, dated 6th January 1880.)

4. Mr. Pedler, Professor of Botany and Chemistry in the Presidency College, Calcutta, has been appointed by the Government of India as the special officer to examine forged stamps. He is to be paid a fee of Rs. 10 for each separate stamp sent to him for examination and report. References should not be made to him without the orders of Government, and no such reference is required or should be made except when the Chemical Analyser to Government is in doubt as to whether a stamp sent to him for examination is genuine or forged and considers a reference expedient. (G. R. No. 5286, dated 6th October 1880.)

5. A fraud against the stamp revenue was committed by certain inhabitants of Ahmedabad by intentionally allowing the stamps affixed to seven hundis payable at sight to remain uncanceled. The hundis were returned by post to the drawers with the stamps uncanceled, so that the stamps might be re-used. The perpetrators of the fraud were convicted of the offence and fined. The attention of heads of departments is invited to the measures recommended by the Superintendent of Stamps in the following extract from his administration report for 1882-83 to prevent a recurrence of frauds of this nature, and they are requested to pay particular attention to the necessity of strictly enforcing the provisions of Section 11 of the Indian Stamp Act, 1879 :—

“I would invite the attention of all Government officers (especially Revenue officers) to the fraud committed in this manner against the stamp revenue. Strict vigilance on the part of these officers and their subordinates in enforcing the provi-

sions of Section 11 of the Act whenever any instruments bearing adhesive stamps are executed before them, and constantly reminding the public of the penalties of the law by having an extract of Section 52 of the Act placed in a conspicuous position at the entrance of public offices and making an example of the offenders are, in my opinion, the best means of protecting the revenue against the re-use of adhesive stamps."

(G. R. No. 7360, dated 3rd October 1883.)

6. The practice of blank transfers obtains in England, and the Select Committee on Act I of 1879 decided not to interfere with the practice prevailing in India. Moreover, in the opinion of the Governor General in Council there is no transfer so long as the name of the purchaser is not inserted in the instrument and under the Indian Companies Act, VI of 1832, Schedule I, Table A (8), the execution of the instrument by the purchaser is necessary to effect a transfer or conveyance of the shares. A transfer in blank, therefore, is not a conveyance or transfer of shares within the meaning of Sections 27 and 63 of Act I of 1879. Under these circumstances the practice of transferring shares in blank does not appear to the Government of India a fraud on the revenue. (G. I., F. & C., No. 4245, dated 8th November 1883; *vide* G. R. No. 8691, dated 27th *idem*.)

XIX.—PROSECUTIONS AND PENALTIES.

1. The object of limiting the power of instituting prosecutions under the Stamp Act to Collectors of Stamp Revenue was to afford a security against vexatious and unnecessary proceedings. (G. R. No. 3159, dated 20th August 1868.)

2. Prosecutions under the Stamp Act should be resorted to only in those cases in which there is sufficient evidence of a fraudulent intention to evade payment of the proper stamp duty. (G. R. No. 3902, dated 5th June 1890.)

3. Official prosecutions of persons for selling court-fee stamps contrary to Section 34 of the Court Fees Act (VII of 1870), as amended by Act XII of 1891, should not be instituted without the sanction of the Collector of the District. (G. R. No. 3699, dated 27th April 1892.)

4. Whenever any public officer has reason to think that a conviction could be obtained under Section 63 of the Stamp Act, it is his duty to communicate with the proper authorities for this purpose. (G. R. No. 4003, dated 31st July 1880.)

5. If any instrument liable to stamp duty under the existing stamp law, and in which the value or amount of consideration money is expressed in Sicca rupees, be drawn on paper bearing a stamp insufficient to cover the same value or amount or consideration money if expressed in Government rupees, then every person or firm making, signing, issuing, accepting, endorsing, paying or receiving payment of such instrument, if it be of the nature of a bill

of exchange, promissory note, cheque or similar instrument, and any person making, executing, or signing otherwise than as a witness such instrument if it be of any other nature, is liable to the penalties provided in the case of frauds against the stamp revenue, and upon information will be prosecuted with the utmost rigour of the law. (G. R. No. 1063, dated 23rd February 1870.)

6. It having been brought to the notice of Government that a practice has been introduced of issuing post-dated hundis or bills, the object being apparently to evade stamp duty by thus making a hundi appear as a bill payable on demand, while in reality it is not so, the Governor General in Council deems it advisable to warn the public that as post-dated bills are not bills payable on demand, they require a stamp prescribed for bills payable otherwise than on demand, and that any person making, signing, issuing, or (except as provided in Section 26 of the General Stamp Act, 1869) accepting, endorsing, paying or receiving payment of any such bill, without the same being duly stamped, will be liable to the penalties provided in Section 29 of the said Act. (G. I. Notn. No. 1264, dated 28th February 1871, republished in the *Bombay Government Gazette*, dated 9th March 1871, page 295.)

7. Local officers should watch carefully against the practice of post-dating hundis or bills in order to evade payment of stamp duty, and institute prosecutions in all cases in which convictions can be obtained under the Stamp Act. (G. I., F. D., No. 4045, dated 25th November 1872; *vide* G. R. No. 6006, dated 5th December 1872.)

8. The policy adopted by the Legislature in Act I of 1879 with respect to instruments of exchange, gift and partition is to make the amount of stamp duty leviable upon such instruments depend upon the value of the property concerned *as set forth in the instruments* (*vide* Schedule I, Articles 35, 36 and 37). By Section 27 of the Act it is provided that all facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein, and Section 63 renders failure to comply with this requirement a punishable offence. The means chosen by the Legislature for securing generally a proper valuation is the prosecution of persons who, with intent to defraud the Government of any duty, understate or neglect to state the value of the property in any instrument to which they are parties. Whenever, therefore, any public officer has reason to think that a conviction could be obtained under Section 63 of the Stamp Act, it is his duty to communicate with the proper authorities for this purpose. (L. R. No. 875, dated 17th July 1880; *vide* G. R. No. 4003, dated 31st *idem*.)

9. If a promissory note or bill of exchange is not stamped in accordance with the provisions of Sections 5, 16, 18 and 44 of the Stamp Act of 1879, the

defect cannot afterwards be remedied, and the document cannot be admitted in evidence. This is clear from Section 34. The Collector is not entitled to demand the stamp duty which ought to have been paid on such an instrument.

The Collector is not bound to prosecute in every case in which he finds that a promissory note or bill of exchange has not been duly stamped. Under Section 61, a person drawing, &c., &c., a bill of exchange or promissory note without the same being duly stamped, is liable to the penalty provided in that section, whether there was any intention of evading the stamp laws or not, but there is nothing in the Act which compels the Collector to enforce the penalty in every case. (Adv. Gen. No. 92, dated 2nd October 1882; *vide* G. R. No. 7569, dated 30th *idem*.)

10. The receipt which a person is required to give by Section 58 of the Stamp Act is a "duly stamped" receipt, and looking to the definition of the term "duly stamped" in Section 3, clause (10) of the Act, it is clear that the requirement cannot be applicable to an instrument which the law in force does not require to be stamped or to be written upon paper bearing an impressed stamp. The refusal, therefore, of a landlord to give a receipt for payment of rent by a cultivator which does not require a stamp under Article 15 (c) of Schedule II cannot make the landlord liable to a criminal prosecution under the provisions of Section 64, the object of which is to protect Government from the loss of revenue through intentional evasion of stamp duty. (L. R. No. 1627, dated 14th December 1882; *vide* G. R. No. 236, dated 11th January 1883.)

XX.—REWARDS.

1. It has been brought to the notice of Government that a practice obtains in certain districts of this Presidency of evading the stamp law by drawing hundis ostensibly payable at sight and affixing thereto a one-anna stamp, although the hundis are in reality not payable at sight, but after a certain number of days indicated in the corner thereof. His Excellency the Governor in Council is, therefore, pleased to notify for general information that any person affording such information as will lead to the conviction of any person so offending will receive half of the fine imposed, unless the Magistrate trying the case for reasons recorded by him thinks fit to withhold the reward. (G. N. No. 6213, dated 21st October 1881.)

2. Whereas it has been brought to the notice of Government that certain Márvádi firms carrying on exchange business in the Native Town of Bombay have made it their practice to obtain foreign bill stamps from other towns where such stamps can be purchased by merchants at a higher rate of discount; and whereas such stamps have been introduced into Bombay and unlawfully sold by means of private

agents or through licensed stamp vendors in league with the aforesaid persons; and whereas certain persons have been prosecuted and convicted before the Magistrates for selling without a license such stamps in contravention of the provisions of Section 68 of the Indian Stamp Act, 1879 (Act No. I of 1879);

Notice is hereby given, for general information, that His Excellency the Governor in Council, in exercise of the power conferred by Rule 18 of the Rules made under Section 9 of the Indian Stamp Act by the Government of India, and published in their Notification No. 1288 of 3rd March 1882, at page 195 of Part I of the *Bombay Government Gazette* of 16th March 1882, is pleased to direct that any person who shall furnish such information as shall lead to the prosecution and conviction of any offenders in the manner herein above described against the said provisions of the Stamp Act, shall receive a reward equal to one-half the fine imposed, unless the Magistrate trying the case shall see fit, for reasons recorded by him, to withhold such reward. (G. N. No. 7711, dated 3rd November 1882.)

3. With reference to No. 19 of the rules made under the Indian Stamp Act, 1879, by the Governor General of India in Council and published in the Government of India's Notification No. 2170,* dated 22nd May 1891, the Governor in Council is pleased to direct that the limit of the reward which any Magistrate convicting an offender under Chapter VIII of the said Act may grant to any person who may have contributed to the conviction shall be one-half of the amount of the fine, if any, which the Magistrate imposes on the offender. (G. N. No. 385, dated 19th January 1892.)

*Printed at pp. 314 et seq. of the Compilation of General Rules.

Note.—Whenever a Magistrate chooses to sentence an offender to imprisonment only, it may be taken as a case in which he for some reason withholds the reward. (G. R. No. 385, dated 19th January 1892.)

XXI.—ACCOUNTS.

1. The cost of service postage stamps, purchased by District Officers in their Revenue and Magisterial capacities, should be debited one-fourth to Law and Justice and three-fourths to Land Revenue.

Whenever the cost of an establishment is divided between two heads, the charge for service postage labels may be divided in the same proportion, care being taken to secure every possible economy. (G. I., F. D., No. 661, dated 29th January 1874; *vide* G. R. No. 1730, dated 1st April 1874.)

2. Officers will be held personally responsible for the safe custody and proper application of service postage stamps entrusted to them. (G. Rs. Nos. 6663, dated 17th December 1874, and 1445, dated 6th March 1877.)

3. In reviewing the Administration Report of the Stamp Department of the Presidency of Bombay for the year 1876-77, the Secretary of State for

India observed that "it seemed important that the receipts for general stamps should be shown separately from those for court-fee stamps, and, also, that by apportioning the charges between the two classes, the gross and net revenue from each class should be clearly exhibited in future reviews of the Annual Stamp Administration Reports."

The various Local Governments who were consulted on the subject concurred in the opinion that the charges on account of judicial and non-judicial stamps should be divided in proportion to the amount of revenue raised from each, it being understood that such charges as could be traced directly to either source of revenue should continue to be charged against that source. The Governor General in Council has accordingly directed that this plan should be followed, and that a statement, such as is desired by the Secretary of State, should be appended to each annual report upon the stamp revenue, whether such report be separate or included in the General Administration Report. (G. I., F. D., No. 299, dated 30th April 1879; *vide* G. R. No. 2592, dated 15th May 1879.)

4. Separate accounts should be kept of service and ordinary stamps. No alteration in the form in use is necessary, all that is required being to enter in distinct books the transactions in each class of stamps. (G. R. No. 7022, dated 23rd November 1881.)

XXII.—FEES.

1. It is not within the competency of a Local Government to order that fees levied under Act VII of 1870 shall be levied in cash and not in stamps; *vide* Section 25 of the Act. (G. I., F. D., No. 231, dated 18th January 1877; *vide* G. R. No. 534, dated 27th *idem*.)

2. All process fees in all Courts should be levied by means of stamps.

(2) This does not apply to process fees levied under the Registration Fee Table. There is no objection to such fees being levied in cash and credited to the Registration Department. (G. Rs. Nos. 76, dated 6th January 1873, and 1151, dated 4th March 1878.)

Note.—The Government of India in their Resolution No. 4820, dated 20th September 1889, rejected a proposal made by the Government of Bengal that fees for the registration of documents and fees payable under Acts III of 1877, VI of 1882 and VIII of 1885 should be paid in stamps instead of in cash. (G. R. No. 7402, dated 3rd October 1889.)

XXIII.—REGISTERS OF COURT FEES.

1. Registers are to be kept of all court fees received by every description of officer. (G. R. No. 1758, dated 12th April 1871.)

2. There should be maintained for each Court a register, in the following form, of the fees levied under Chapter IV and of those levied under the different articles of Schedules I and II of the Court Fees Act:—

[FOR CIVIL COURTS.]

I.

Daily Register of Court Fees realized in the Court of the

Date.	Process Fees.		Amount realized under Act VII of 1870, Schedule I, Articles 1 to 9 inclusive.		Amount realized under the same Schedule, Nos. 10 to 12.		Amount realized under Schedule II.		Total.		Remarks.
	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	a.	Rs.	a.	

[FOR REVENUE AND CRIMINAL COURTS.]

II.

Daily Register of Court Fees realized in the

Date.	Process Fees.		Other Fees.		Total.		Remrks.
	Rs.	a.	Rs.	a.	Rs.	a.	

It is to be observed that the entries are not to be made in detail, but only so as to show, in the case of the Civil Courts, the aggregate value of the stamps filed in the Court during each day under each of the four classes indicated, and in the case of the Criminal and Revenue Courts the total daily receipts from process fees and other fees. The entries should be initialled daily by the presiding officer. (G. I., F. D., No. 3335, dated 21st September 1877; vide G. R. No. 6108, dated 10th October 1877.)

3. There seems no reason why officers of the Salt and Customs Departments should be exempted from the obligation of keeping registers of court-fee stamps, but, to save clerical labour, only stamps of the value of more than one anna should be entered in detail, and the total number of one-anna stamps received in the day should be entered in one item at the end. (G. R. No. 4568, dated 6th June 1885.)

4. It is incumbent on all Revenue officers to keep a register of court fees received by them, and Government see no reason to make an exception in favour of the Forest Department. (G. R. No. 2150, dated 7th April 1888.)

5. The registers of court-fee stamps kept in the Courts and offices subordinate to the Revenue Department should be preserved for six years. (G. R. No. 8624, dated 19th December 1887.)

•XXIV.—STAMP LAW IN RELATION TO NATIVE STATES, CHIEFS, &C.

1. The Court Fees Act,* 1870, and the Stamp Act, 1879, extend to the whole of British India. These Acts are not in force in Native States, and Government has no interest in their stamp revenue. Within the limits of a Native State, copies of public documents in cases disposed of by Political Officers in their capacity as such are, no doubt, furnished according to the practice prevailing in such State. Beyond those limits and within British territory the *lex loci* must be followed, and that law makes no distinction in favour of public records of the description alluded to. (L. R. No. 16, dated 4th January 1882; *vide* G. R. No. 391, dated 19th *idem*.)

2. An agreement in the nature of a treaty between an independent State and the Paramount Power is not affected by the British Indian stamp law and, therefore, does not need to be stamped in accordance therewith. (L. R. No. 507, dated 8th April 1884; *vide* G. R. No. 3814 A, dated 12th May 1884.)

3. The rules† framed under the Pensions Act of 1871 apply to Karkúns of the Treaty Jághirdárs presenting themselves to receive payments of amals from the Poona Treasury in British India, and accordingly stamped powers of attorney are required. The only question which remains is whether the British Government should pay the stamp duty. A decision does not rest on considerations of dignity, but on general principles. If a foreign Chief sues in a British Court, he must follow the laws of the land in which the Courts are situated. There is nothing derogatory to his dignity in so doing, and the principle is the same in regard to the transactions in question. Government, therefore, see no reason for granting any exemption in regard to the payment of these amals, even if the law empowered them to do so. (G. R., P. D., No. 7646, dated 22nd November 1887; *vide* G. M. No. 8646, dated 20th December 1887.)

†Printed at pp. 295 et seq. of the Compilation of General Rules.

4. No public functionary can exercise the authority he derives from law, save on the terms and conditions imposed by that law. When an application

* The Court Fees Act came into permanent operation in Aden on 1st April 1876. (G. N., J. D., dated 14th October 1876, published at page 956 of the *B. G. G.*, dated 19th *idem*.)

made to British Courts or officers is such, that a particular form, stamp, or procedure is required by law, the functionary is not at liberty to dispense with, and thus to proclaim himself superior to, the law. So also on the part of the applicant, his application implies, for the purpose in hand, a submission to the law, and to the system of law with its accessories which he invokes, and he cannot, as an applicant or suitor, demand terms differing from those prescribed by law. Whenever, therefore, a Chief, Tálukdár, or any person of rank, invokes the authority of a British officer, especially on account of property situated, or transactions effected, in British territory, he must do so subject in every respect to the laws and regulations applicable to British subjects.

If a foreign Chief sues in a British Court, he must follow British laws. There is nothing derogatory to his dignity in invoking that law, and if he does so, he must follow its directions. All exemptions which have hitherto been allowed contrary to law must, therefore, cease. (G. R., P. D., No. 2740, dated 17th April 1888; *vide* G. M. No. 3223, dated 21st May 1888.)

5. As the provisions of the Stamp Act do not apply to the Jawhár State, no British stamp duty can under that Act be levied on tapping licenses executed within the limits of that State. (G. R. No. 4836, dated 20th July 1888.)

6. "The question referred for my opinion by Government memorandum No. 6605 of 3rd October 1888 is whether the British A'bkári Inspector in the Jawhár State can receive and act upon an application received in that State in respect of which the fees leviable under the Court Fees Act have not been paid.

"2. I have the honour to report my opinion that the Court Fees Act has *ex proprio vigore* no extra territorial force, and that, therefore, the applications may be received in the Jawhár State without court fees.

"3. The right to require such court fees on such applications may have been conceded in the special agreement with the Rája of the State, or may possibly be inferred from his 'active assent or silent acquiescence,' but without seeing the agreement I am unable to say whether it empowers the British Government to annex what conditions it pleases to the grant of ábkári licenses and applications.

"4. But whether he has the power to require court fees or no, I think that there can be no doubt that the A'bkári Inspector is not *bound* to require court fees on applications presented to him in the Jawhár State." (L. R. No. 191, dated 15th February 1889; *vide* G. R. No. 1614, dated 27th *idem*.)

XXV.—INTERPRETATIONS; JUDICIAL RULINGS; AND LEGAL OPINIONS.

* *Vide* Article 15 (c) of Schedule II of Act I, 1879.

1. With reference to clause (1)* of Section 15 of Act XVIII of 1869 (the General Stamp Act), which

provides for the exemption from duty of receipts or discharges granted to cultivators of inám lands in the Bombay Presidency, the Collectors are informed that the widest construction may be given to the term Inám, and that it may be held to include all lands held partially exempt from the payment of land revenue. (G. C. No. 4545, dated 22nd October 1869.)

2. The Tálukdári Settlement Officer having raised the question whether a Tálukdár or other landholder, when petitioning for assistance to collect his rent, should be required to make a separate application on a separate stamp for each tenant's case, or whether he may put as many as he can into one paper, taking care to cover an amount above Rs. 50 by the larger stamp required, it was ruled that as the Court Fees Act does not limit the subject-matter of an application or "petition," the fee on which is regulated by Article I, Schedule II of the Act, a petitioner is at liberty to introduce more than one matter or case into an application or petition. (G. R. No. 2818, dated 4th June 1874.)

3. Every document 'issued, received, or attested by an officer engaged in making a settlement or revision of settlement of land revenue, and which forms part of the record of such settlement' (Act VIII of 1871, Section 87,* clause a), is not necessarily a 'statement.' A notice issued under the Survey or City Survey Act, for instance, or a deed of sale, or a mortgage deed, or a copy of any such deed received and recorded by a Survey Officer, is not a 'statement' within the meaning of Article 9, Schedule I, Act VII of 1870. The truth is that each document must be judged of by its particular nature, and no general rule can be laid down as to all documents of which copies may be obtained under clauses (a), (b) and (c) of Section 87, Act VIII of 1871.

*Cf. Section 90 (a) of Act III of 1877.

Clause (c)† of the said Section 87, Act VIII of 1871, has, it is believed, no applicability in this Presidency. It relates to 'documents which under any law for the time being in force are filed periodically in any revenue office by patwáris or other officers charged with the preparation of village records.' There is apparently no law in force which requires a Taláti or Kulkarni (the 'officers charged' in this Presidency 'with the preparation of village records') to file periodically any document in any revenue office. If there are any documents which are so required to be filed, it is wrong to suppose that the clause only relates to documents filed 'in a Taláti's daftar;' it relates to documents filed 'in any revenue office.' (L. R. No. 126, dated 20th February 1877; vide G. R. No. 1328, dated 28th idem.)

†Cf. Act III of 1877, Section 90, clause c.

4. In Government Resolution No. 233, dated 14th January 1878, Judicial Department, it was laid down that unauthenticated copies of proceedings of Sessions Courts needed for official use should, when possible, be made by clerks in the office of the District Magistrate; and in his report, cited in the preamble of that Resolution, it was remarked by the Legal

Remembrancer that for actual departmental purposes, the Sessions Judge would no doubt always cause the necessary copies to be prepared in his office.

(2) The same order and remarks are applicable to Magisterial proceedings.

(3) It has been held by the High Court that Article 9, Schedule I of Act VII of 1870 applies only to certified copies of papers (see foot-note at page 392, West's Code, Volume IV). For all inter-departmental and official purposes uncertified copies suffice. (L. R. No. 97, dated 21st January 1881; *vide* G. R. No. 681, dated 1st February 1881.)

5. The Government of India is advised that there is nothing in the law to vitiate an instrument partly written on the reverse side of an impressed stamped paper. Section 12 of the Indian Stamp Act, 1879, however, requires the stamp to appear on the face of the instrument; so that it is necessary that part of the instrument should be written on the side of the paper which bears the stamp impression. (G. I., F. & C., No. 917, dated 28th February 1881; *vide* G. R. No. 1418, dated 9th March 1881.)

6. The stamp rules do not prohibit the writing on the reverse side of a sheet of stamped paper endorsements by stamp vendors or by Civil Courts on documents presented to such Courts as exhibits. (G. I., F. & C., No. 1137, dated 12th March 1881; *vide* G. R. No. 1718, dated 24th *idem*.)

7. "The document in question is a will in which the testatrix states that so long as she is living it will not be competent to her to dispose of the property. I do not think that the language employed can be held to amount to a distinct agreement, because looking to the voluntary nature of a will it could not, I think, be construed into anything more than an expression of the present determination of the testatrix not to dispose of any part of the property before her death. The instrument is in its principal intention a will; the mere incidental allusion which it contains to the views of the testatrix as to her own future power over the property, or as to her intention with regard thereto, cannot, in my opinion, afford sufficient reason for regarding it as anything more than a will." (L. R. No. 400, dated 29th March 1881; *vide* G. R. No. 2124, dated 12th April 1881.)

8. Under the ruling of the High Court of Bombay given at page 188 of the Indian Law Reports, Bombay Series, Vol. V, there is no legal objection to the agreements of the principal and his surety being written on one and the same stamp paper, and treated as one instrument, and not as two separate agreements, each chargeable with stamp duty. (L. R. No. 669, dated 12th June 1882; *vide* G. R. No. 4391, dated 8th July 1882.)

9. A question having been raised by a Collector as to the procedure to be followed in determining the value of the property settled in a deed of settlement

so as to fix the stamp duty leviable, the following opinion was recorded by the Remembrancer of Legal Affairs :—

“The proper stamp duty should be adjudicated by the Collector under the provisions of Chapter III of the Indian Stamp Act, 1879.

“There is no fixed rule for determining the valuation of immoveable property for the purposes of stamp duty ; but in Schedule B of Act XXVI of 1867 (repealed by Act X* of 1877) special rules for determining the market-value of immoveable property were given. The general rule was that twenty times the annual net profits of such property shall be deemed to be the market-value thereof, unless and until the contrary shall be proved ; but in the Bombay Presidency, this valuation was reduced one-half for unalienated land brought under a settlement, and in the case of alienated land was reduced in proportion to the amount of assessment exempted.

* Repealed by Act XIV of 1882.

“In the valuation of suits for the fiscal purpose of court fees, fifteen times the annual assessment has been fixed as the rule for ascertaining the value of an alienated village.

“An instance of low valuation may be mentioned in the case of the purchase of a Zamindár's proprietary rights by Government for the payment of his debts. In the Jhánsi Encumbered Estates Act, 1882, the valuation for the purposes of purchase by Government is estimated to be a sum amounting to ten times the net annual profits of the Zamindár.

“In the present instance the Collector may safely follow the method of calculation which was formerly in use in accordance with Rule 3 of the special rules for the Bombay Presidency given in Schedule B of Act XXVI of 1867.”

(L. R. No. 1221, dated 13th September 1882 ; *vide* G. R. No. 6947, dated 6th October 1882.)

10. The language of clause (b), Article 13 of Schedule II of Act I of 1879 exempts all leases executed in the case of a cultivator without the payment or delivery of any fine or premium, whatever the reserved or annual rent may be, provided it be for a definite term not exceeding one year, and also whatever the term may be, provided the annual rent reserved does not exceed Rs. 100. (High Court's Judgment in Civil Reference No. 33 of 1882 ; *vide* G. R. No. 5231, dated 5th August 1882 ; and G. I., F. & C., No. 3928, dated 23rd September 1882 ; *vide* G. R. No. 7033, dated 9th October 1882.)

11. Parties to transactions relating to land or other immoveable property are at liberty either to dispense altogether with written documents recording such transactions, or to give and take such instruments as they mutually agree upon. In the Presidency town and its neighbourhood, people are influenced considerably by English lawyers, who delight in inflicting upon their clients long formal documents at every stage of their dealings in immoveable property. In the mofussil the much more simple forms of native origin are still adhered to, and as a rule they answer their purposes excellently.

It is not competent to the Executive Government to intervene to render it necessary for people in the mofussil to follow the practice in vogue in the Presidency towns.

sum of Rs. 400 at the time of execution. A further proviso in the deed reserved a grain payment of 2 páyalis of wheat per annum to the lessor. The value of this was not shown, and the parties to the deed declared that owing to the time to which the lease was to run, and the fluctuations in prices which must take place in that period they could not attach a value to the grain payment. The stamp on the deed was Rs. 4, exactly sufficient to cover the rent paid down in cash in lump. The question was raised whether in such a case the parties to the deed had the right to claim the protection of Section 26 of the Stamp Act, the holder of the deed undergoing the risk attendant in cases contemplated by that section, or whether the registering officer to whom such deed was presented should impound it under Section 33 and send it under Section 34 of the Stamp Act to the Collector. The Remembrancer of Legal Affairs expressed his opinion that the approximate money-value of the grain ought, with reference to Section 27 of the Stamp Act, to be stated in the lease. (L. R. No. 528, dated 12th April 1884; *vide* G. R. No. 3425, dated 28th idem.)

15. Kabuláyats passed by khots of unsurveyed inám villages are not agreements executed respecting the occupancy of land and the payment of the land revenue therefor under the Land Revenue Code or any rules made thereunder within the meaning of Article 1 (e), Schedule II to the Government of India Notification No. 2897 S. R., dated 7th June 1894. (G. R. No. 6600, dated 13th August 1885.)

16. Where there is an absolute *bond fide* sale and conveyance, with a collateral agreement for repurchase and reconveyance on repayment of the purchase-money, the latter agreement does not legally cancel the original deed of sale and convert the sale into a mortgage; the reconveyance on the repayment of the original money should not, therefore, be considered a reconveyance of mortgaged property within the meaning of Article 53 of Schedule I of the Stamp Act. (L. R. No. 965, dated 11th August 1885; *vide* G. R. No. 6842, dated 22nd idem.)

17. "The question is whether the assignment of standing crops exceeding Rs. 20 in value comes under Section 58 of the Indian Stamp Act (I of 1879).

"That section provides that any person receiving in satisfaction of a debt any moveable property exceeding Rs. 20 in value shall on demand by the person *delivering such property* give a duly stamped receipt for the same.

"An assignment of property is not delivery. If in the case put by the Collector of Násik, P. valad T. should cut the crop and deliver it to the Márwádi, who would receive it in satisfaction of a debt, then Section 58 would apply.

"Again, the standing or growing crop would not be moveable property under Act I of 1879. There being no definition of moveable property in that Act, reference must be made to the General Clauses Act (I of 1868). Under this Act, moveable

property means property of every description except immoveable property, and immoveable property includes things attached to the earth or permanently fastened to anything attached to the earth. These also are the words found in the definition in the Registration Act III of 1877 with the following important addition—'but not standing timber, growing crops, nor grass.' The special mention of these properties in the Registration Act shows that otherwise they would be included among things attached to the earth or permanently fastened to anything attached to the earth. And it is admitted that in other Acts, such as Revenue and Penal Codes, growing crops would be regarded as immoveable property. Therefore it seems clear that growing crops are not moveable property under Section 53 of Act I of 1879, nor is an assignment of growing crops a delivery thereof." (L. R. No. 935, dated 4th August 1885; *vide* G. R. No. 7015, dated 29th idem.)

18. "There are three brothers, J., H. and B., sons of A.

"In a suit under Bombay Act III of 1876 before the Mámílatdár of _____ brought by H. against D., F. and others, B. was called as a witness and produced a book in which are three documents relating to a partition between the three brothers in Samvat 1934 (A. D. 1867). The Mámílatdár called these documents 'labhavána dastávajo.' In Wilson's glossary, *labhava* is given as 'casting lots for dividing the produce of a field.' Probably it may equally well be applied to casting lots for the partition of an estate, answering to the 'pána' so common in Káthiáwár. The Mámílatdár held that, in the absence of any regular stamped documents, these documents must be looked upon as the instruments of partition. He, therefore, impounded the book and sent it to the Collector.

"Correspondence ensued as to the value of the estate, and eventually the three brothers declined to pay any stamp duty or penalty, or to let the documents be stamped.

"The Collector is unwilling to order any prosecution, as he considers that there was no intention to evade the payment of stamp duty or to defraud the Government. The Government Pleader suggests that the pages on which the documents are written should be cut out of the book and impounded till the penalty and stamp duty are paid. The Collector hesitates to follow this course, as he holds that the documents not being registered are really waste paper.

"I think that the book may be returned to B who produced it. It is a mistake to suppose that these three documents are the counterparts of each other, or that the three documents specify the share of the property falling to the lot of each. A. indeed purports to give the details of the lands falling to B.'s share. B. purports to show the houses which have fallen 'to my share;' but it is not speci-

ficd whose share. K. purports to show the details of lands and houses which have fallen 'to my share;' but it is not specified whose share. The third share is altogether unaccounted for. Not one of the documents is dated. Each simply says, the following are the lands or houses of the share in the partition of 1934 Jeth *vad* 4.

"I think it is doubtful whether individually or collectively they form an 'instrument of partition.' They are apparently memoranda of portions of a previous partition; and I do not think the fact that the three brothers and witnesses signed each document militates against this view. The Wághela Grássiús often draw up papers in this way." (L. R. No. 1203, dated 19th September 1885; *vide* G. R. No. 7985, dated 1st October 1885.)

19. Article 8, Schedule I of the Court Fees Act applies only to a copy which is (1) a copy of a document liable to stamp duty under the Indian Stamp Act, and (2) which is left by a party to a suit or proceeding in place of the original withdrawn. It does not apply to copies of documents on plain paper which are not produced in original by reason of their being entries in books or such as would not become void or useless by force of the decree. These copies are not certified copies, and the original documents not having been filed according to law, cannot be said to have been left in place of the original documents withdrawn as contemplated by Article 8. (L. R. No. 227, dated 17th February 1886; *vide* G. R. No. 1608, dated 27th *idem*.)

20. The following papers were circulated by Government to Commissioners, District Registrars, &c., for information:—

Letter from the Commissioner, S. D., No. S.R.-188, dated 3rd February 1886, to the Registrar of the Bombay High Court:—

SIR,—Under Section 46 of the Stamp Act I have the honour to forward the annexed copy of a deed, purporting to be a deed of adoption, with a translation thereof, and request you will be good enough to move their Lordships the Judges to determine what stamp duty the document is liable to under the Indian Stamp Act.

The deed may shortly be described as a deed of adoption purporting to bestow property of considerable value (the exact amount, however, is not specified in the document) on the adopted son.

The deed was drawn up on a stamp of Rs. 10. When the document was presented to the Sub-Registrar of Chip-lín for registration, he impounded it as insufficiently stamped and forwarded it to the Collector of Ratnágiri for the adjudication of the proper stamp duty.

The Collector held that the document in question was properly stamped, inasmuch as the stamp duty for an "adoption deed" (Article 2, Schedule I of the Stamp Act) was the same as that prescribed for "an authority to adopt" (Article 38 of the Schedule), *viz.*, Rs. 10.

I am of opinion that the decision of the Collector is wrong. Under the Stamp Act, I think a "deed of adoption" as such is *not* liable to any stamp duty. The entry against "adoption deed" in the Schedule is "see instrument No. 38." Whereas whenever the Legislature intended a

particular document to be made liable to the same duty as prescribed for any other document, they have used the following words against it, *viz.*, "the same duty as" in column 2 of the Schedule (*vide* entry immediately above "adoption deed"). I notice also that whenever a document is liable to stamp duty it is separately numbered in the Schedule. "Adoption deed" is not so numbered.

It has been urged, however, that inasmuch as the document in question bestows upon the adopted son the property of an adoptive mother, it is an instrument of gift of a non-testamentary nature (Article 36 of Schedule I of the Stamp Act) and therefore it was necessary for the Collector to call upon the parties to the instrument to specifically state the value of the property affected thereby in order to determine the proper stamp duty to which the document was liable. This view of the nature of the document does not commend itself to me. It is admittedly a deed of adoption, and the incidental mention of the fact therein that the adopted son is the heir to the property of the adoptive parent ought not to be construed as changing the nature of the document. The very fact of his being an adopted son would make him heir to the property of his adoptive mother whether the fact was specifically mentioned in the deed or not. The property descends to him not by the deed but by *adoption* which is evidenced by the deed.

Again, it might be urged that the instrument is liable to stamp duty under Section 7 of the Stamp Act, as it relates to several distinct matters, *viz.* (adoption and gift of property).

The points to be considered under the section are :—

- (1) whether the instrument comprises or relates to several distinct matters, or
- (2) whether it is so framed as to come within two or more of the descriptions in the first Schedule.

These two questions need be separately considered only when the two or more matters comprised in an instrument are each chargeable with duty. In the present case, as shown above, the deed of adoption is not liable to any duty. It is therefore only necessary to see whether the present instrument which is admittedly a deed of adoption is a *deed of gift* as well.

I think the best test to determine this is to see whether, supposing the adoption to be illegal and invalid, the adopted boy would be permitted to claim the property mentioned in the deed, under it, *as a deed of gift*; or whether the mention of the conferring of the property upon him will be looked upon as a mere redundancy of expression and taken to be part and parcel of the record of adoption. If the former, the deed is of course liable to be stamped as an instrument of gift; if the latter, it is subject to no duty.

A careful perusal of the deed shows that it is a deed of adoption only. The only words in it which give it the colour of a deed of gift are "and have made you the owner of all the ancestral property." In construing these words the context must be considered. The word "and" in the above quotation deserves to be specially noted. It distinctly *connects* the ownership of property with the adoption and makes it dependent on it.

It thus appears to me that if the adoption were, owing to some flaw in it, declared invalid, no Civil Court would admit the claim of the adopted boy to the property under this deed as a *deed of gift*, and if it would not, why should the instrument be taken to be a "deed of gift" for the purposes of the stamp duty?

As the question is an important one, I submit it for an authoritative decision.

I have &c.,

(Signed) ARTHUR CRAWFORD,
Commissioner, S. D

JUDGMENT IN CIVIL REFERENCE NO. 5 OF 1886.

Krishnábái, widow of Rámchandra } Adopter.
Amarsing Ráje.

Pratápji Rámchandra Ráje ... Adoptee.

Reference from A. Crawford, Esquire, Commissioner, Southern Division, under Section 46 of the Indian Stamp Act.

The document is a deed of adoption, and not a deed of gift. The Commissioner, Southern Division, seems to be right on this point. Whether the document, as a deed of adoption, requires to be stamped at all, is a question that does not really arise in this case. It bears a stamp of Rs. 10. The Collector says it is sufficient. The Commissioner does not consider it insufficient if it does require a stamp, but says it does not require any.

(Signed) C. SARGENT.

(Do.) NÁNÁBHÁI HARIDÁS.

(Do.) H. BIRDWOOD.

(G. R. No. 5835, dated 13th August 1886.)

21. Letters of administration are not a "judicial proceeding" within the meaning of Article 9, Schedule I of the Court Fees Act VII of 1870, and copies of letters of administration should, therefore, be charged with stamp duty under article 22, Schedule I of the General Stamp Act, and not with a court fee.

(L. R. No. 1532, dated 1st December 1886; *vide* G. R. No. 8714, dated 10th idem.)

22. "Following the ruling of the High Court of Calcutta in *ex parte Hill* (I. L. R., 8 Calcutta, 254), I should say that if the instruments A and B fall under Section 7 of the Stamp Act I of 1879, at all, paragraph 2 of that section applies to them. Speaking of an instrument which they said was intended to effect partly a lease and partly a usufructuary mortgage, their Lordships the Chief Justice and two Judges of that Court said:—

"It seems clear to us that * * * * * the loan is the consideration for the lease and the lease is the consideration for the loan; and that neither part of the arrangement would have been complete without the other.

"We, therefore, think it impossible to say that the instrument relates to two distinct matters within the meaning of the first clause of Section 7 of the General Stamp Act. That clause, in our opinion, relates only to transactions so distinct in their nature as to be capable of being carried out by two or more instruments instead of one, whereas here the contract is essentially one transaction. On the other hand, we think that the case falls within the second clause of Section 7, the instrument being one which answers two of the descriptions in the first schedule, and which is therefore chargeable with the highest duty which can be imposed on an instrument of either description."

"But I do not think that these instruments do 'answer two of the descriptions in the first schedule.' One is a mortgage deed and the other a deed of sale. The one effects a mortgage and the other a sale of an interest in a joint estate, and each, therefore, naturally contains provisions regarding the joint management of the property. These provisions are incidental and supplementary to the main intention of the instruments, and cannot, I think, be rightly regarded as bringing those instruments

within the description of 'instruments of co-partnership'." (L. R. No. 1643, dated 21st December 1886; *vide* G. R. No. 108, dated 17th January 1887.)

23. Article 22 of Schedule I of the Indian Stamp Act must refer to copies of, or extracts from, records which a public officer is bound by law to keep. It is clear that the law in question must be the law for the time being in force in British India and not elsewhere. (Adv. Gen. Nos. 76, dated 21st August 1882, and 18, dated 2nd June 1887; *vide* G. R. Nos. 6007, dated 1st September 1882, and 4091, dated 5th July 1887.)

24. Occupants holding land under the terms of a survey settlement are persons holding temporarily settled land under direct engagement with Government as described in Schedule II, No. I (a), second clause, Court Fees Act, 1870. (L. R. No. 1560, dated 10th December 1887; *vide* G. R. No. 634, dated 28th January 1888.)

25. The following opinions of the Honourable the Advocate General, Bengal, dated 19th October 1887 and 8th February 1889, were communicated by the Government of India for information and guidance, with an intimation that as the 'sattas' appeared to vary in form in different localities, these opinions should in any particular case be carefully considered with reference to the form of 'satta' actually used:—

"A 'satta' attested by a witness, and executed for the delivery of cotton on a certain day, is a 'bond' within the meaning of Section 3 (4) of the Stamp Act, 1879, and, as such, is liable to stamp duty. I am further of opinion that the transfer of a 'satta' of the above description is a transfer under Article 60 (b); and having regard to the change effected by the Stamp Act, 1879, in the liability of a 'satta' (which falls within the description of a bond) to bear a stamp duty, Notification No. 3226 of 22nd May 1874 is no longer applicable.

"A receipt given for earnest money is liable to stamp duty under Article 52 of Schedule I.

"As regards indigo 'sattas,' I would point out that the form in which they are said to be drawn would not constitute them bonds in England, and unless attested they would not be bonds under the Stamp Act. If unattested, an indigo 'satta' would be a covenant with a penalty attached (*i. e.* an agreement to deliver a certain quantity of indigo, and in the event of non-delivery to pay damages).

"However I am of opinion that the penalty named in a bond is the sum upon which the stamp duty is payable." (Opinion dated 19th October 1887.)

"The satta set out in this case is not a bond as held by the High Court (Section 8, Indian Law Reports, Calcutta, page 284). This decision is at variance with the decision in Indian Law Reports 2, Allahabad, page 654, which had been previously passed. In Bengal the decision of the High Court at Fort William must be followed, and consequently the satta or indigo contract under notice only requires an 8 anna stamp.

"My previous opinion, dated 19th October 1887, should not have been applied to the present case. I was then advising in a North-Western case and upon an agreement of a different kind, the purport of which was stated, but the document not placed before me, and in the case itself it was admitted that the document was a bond.

"According to the decision in Indian Law Reports, 2 Allahabad, page 634, the document as to which I was then asked to advise would be a bond liable to stamp duty on the penalty.

"In a portion of my previous opinion I stated that the penalty named in a bond is the sum upon which the stamp duty is payable. This would be so in reference to a bond mentioned in Article 14 (a) of Schedule (I), and the proposition is also correct in reference to the bond I was then advising on. But the language used by me, apart from the case on which I advised, would be applicable to simple money bonds, with penalties attached; and in this respect my opinion is not correct. The penalty in a simple money bond is introduced for the purpose of enabling the lender to realise principal and interest, and may be said to be in that sense the amount secured. Section 23 of the Stamp Act shows that interest may be left out of consideration, and the principal be deemed the amount on which the stamp is leviable. Read by the light of this section, the amount secured would be the principal amount lent, and not the penalty. To this extent the language used by me would require modification. I should have used the words 'the bond' instead of the expression 'a bond'." (Opinion dated 8th February 1889.)

(G. I., F. & C., Nos. 6509, dated 9th December 1887, and 2280, dated 6th May 1889; *vide* G. Rs. Nos. 169, dated 9th January 1888, and 3985, dated 1st June 1889.)

26. "The District Judge, Kánara, raises the questions—

(a) whether a Subordinate Magistrate is entitled to a fee on an affidavit sworn before him;

(b) whether any stamp should be affixed to the affidavit, and if any, of what value.

"The Honourable Mr. Naylor's report No. 52 of 8th January 1887, in which Government have expressed their concurrence,* points out that it is open to Government to charge fees for certain services performed by their officers, such as the attestation of documents and affidavits, wherever the performance of such services is not part of the duties of such officers imposed on them by law.

"Government accordingly extended to affidavits the provisions of paragraph 4 of Government Resolution No. 2308 of 12th June 1871.

"That paragraph authorises public officers of the class mentioned in the preceding paragraphs of the Resolution to take a fee of one rupee in the shape of a stamp, which should be affixed and obliterated.

"The preceding paragraphs of the Resolution include Magistrates.

"The Resolutions taken together appear to be unambiguous. The fees to be taken under them are not stamp duties or court fees, but mere charges for the services which Government allows its servants to perform for the convenience of the public, though they are not bound by law to perform them.

"I need hardly note that as the Resolution is not based on the Court Fees Act, 1870, or Indian Stamp Act, 1879, it does not affect, and is itself

* Government Resolution No. 429, Judicial Department, dated 21st January 1887.

unaffected by, the provisions of Section 6 of the former Act, or Section 34 and Schedule II, Article 1, of the latter Act. (Section 6 of VII of 1870 and Section 34 of I of 1879 render inadmissible in Courts of Justice any document or instrument not stamped as required under the schedules to those Acts. Schedule II of I of 1879 exempts from stamp duty affidavits used for certain purposes.)

“Therefore, on the one hand, the non-payment of a fee, chargeable under the above Resolutions on an affidavit, could not affect its admissibility, and on the other, the exemption of an affidavit from stamp duty under the Stamp Act does not disentitle Government to charge a fee for the services of the officer who attests the affidavit, a service which he is not *bound* by any law to perform.” (L. R. No. 88, dated 21st January 1889; *vide* G. R., J. D., No. 853, dated 14th February 1889, and G. M. No. 2001, dated 14th March 1889.)

XXVI.—MISCELLANEOUS.

1. *Stamps on petitions to Government.*—Court-fee stamps of arbitrary values which are sometimes affixed to petitions through ignorance or misunderstanding of the Stamp Act and the standing orders of Government on the subject, by petitioners petitioning Government in regard to matters other than civil, should always be returned to them with an intimation that such return has been made. (G. R. No. 2580, dated 21st April 1877.)

2. The Superintendents of the Revenue, Financial and General Departments are held strictly responsible that all uncanceled stamps affixed to petitions to Government received in their respective branches are duly returned to the petitioners, as required by Government Resolution No. 2580, dated 21st April 1877, and that all stamps which are legally affixed, if there are any such, are properly defaced. (G. C. No. 213, dated 13th January 1879.)

3. *Removal of Stamps.*—Officers removing stamps from papers which do not require stamps, or from papers over stamped, should affix their initials to the paper. (G. R. No. 3766, dated 17th July 1879.)

4. *Publication of Translations.*—Care should always be taken to publish promptly any notifications or amended rules under the Indian Stamp Act; and to enable the Oriental Translator to do this, the Superintendent, Government Central Press, should furnish him with English slips of such notifications or amendments as they are issued. (G. R. No. 4085, dated 5th August 1879.)

5. *Stamping on Skeleton Forms.*—It is not expedient that the value of the one-anna stamps impressed on skeleton forms should be received in cash at the General Stamp Office, Bombay. This course would entail certain responsibilities on the Superintendent of Stamps, which it is considered desirable should not be imposed upon him, and might also open a door for fraud. The documents to be stamped should,

on presentation to the Stamp Office, be accompanied by a receipt from a Government Treasury for the full value of the stamps to be impressed. The Secretary and Treasurer, Her Majesty's Treasury, Bank of Bombay, should receive from the public the amount paid on account of the one-anna stamp and pass to them a receipt for the same to be presented at the Stamp Office along with the documents required to be stamped. (G. R. No. 2377, dated 11th April 1882.)

6. Sureties.—Government do not consider it desirable to insist upon the lodgment of title-deeds or to require a deposit of promissory notes or cash by the sureties for the Storekeeper of the Bombay Stamp Office. It will suffice if the Superintendent of Stamps satisfies himself fully that the sureties are solvent and able to pay the amount for which they are liable, and ascertains carefully at intervals of not more than a year that the security furnished is sufficient. (G. R. No. 2550, dated 19th April 1882.)

7. Forest Agreements.—The Forest Department is authorised to have a limited number of the printed forms of contract agreement to be entered into with coupe contractors embossed with an eight-anna stamp by the Superintendent of Stamps, Bombay, and to keep the forms in stock to meet the requirements of the service. (G. R. No. 8702, dated 4th November 1892.)

TÁLUKDA'RS AND TÁLUKDA'RI ESTATES.

PART I.—TÁLUKDA'RI SETTLEMENT OFFICER AND ESTABLISHMENT.

1. The Tálukdári Settlement Officer will correspond with Government through the Commissioner, N. D., but will communicate all letters of importance to the Collector of Ahmedabad. (G. L. No. 4449, dated 10th December 1862.)

2. The charges on account of supervision or management that will fall on the estates put under the management of the Tálukdári Settlement Officer should be levied according to a percentage on all receipts from estates under direct management. (G. Rs. Nos. 4164, dated 28th August 1871, and 8550, dated 2nd November 1895.)

3. It is the wish of Government that the Tálukdári Settlement Officer should have the benefit of the advice of the Legal Remembrancer in cases where the former is a party to a suit in his capacity as manager. But if he is accorded the advantages of a Government officer sued or suing in his official capacity he is also bound to attend carefully to the rules laid down for general guidance in such cases and to consider carefully whether resort need be had to litigation. (G. Rs. Nos. 3082, dated 18th June 1874, and 7778, dated 25th September 1885.)

4. Kárkúns in Government service who are employed as managers of Tálukdári estates in the Panch Maháls District under the designation of japtidárs are allowed to count their service as japtidárs for pension, provided that pensionary contributions have been paid by them since 8th February 1886 under the rules in Chapter XXXV, Part VII, of the Civil Service Regulations, Third Edition. (G. L., F. & C., No. 3775, dated 11th July 1888; *vide* G. R., F. D., No. 2553, dated 13th August 1888.)

5. The Tálukdári Settlement Officer and his establishment should be considered to be in foreign service of the third kind. Pension contributions are to be borne by the estates.

Six-elevenths of the pay of the Tálukdári Settlement Officer should be charged to Government, and the remainder to the estates. The establishment under him should be paid from general revenues instead of by estates under management, the cost being subsequently recovered from these estates.

(G. Rs. Nos. 5736, dated 7th August 1889, 8126, dated 24th October 1889, 2988, dated 1st May 1890, 611, dated 24th January 1891, 310, dated 24th January 1894, and 1993, dated 18th March 1898.)

6. The Tálukdári Settlement Officer should explain in the column of remarks or in a separate column showing interest accruing on advances, the apparent discrepancies in and between columns 6, 7 and 8 of Appendices 1, 2, 3 to his annual adminis-

PART I.] [TA'LUKDA'RS AND TA'LUKDA'RI ESTATES..

tration report. (G. R. No. 1658, dated 10th March 1888.)

7. The collection of the contribution from Talukdars towards the Boundary Marks Repair Fund as well as the collection of funds to meet a moiety of the cost of the inspecting establishment should be discontinued, and the entire cost of the inspecting establishment should be borne by Government. (G. R. No. 6921, dated 26th September 1888.)

TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.] [PART II.

PART II.—SURVEY AND SETTLEMENT.

1. The following orders were passed on the question of revision of revenue settlements of the estates of the Tálukdárs in the Ahmedabad District, not including those of the Mevásis of the Parántij District who, however, are to be regarded as Tálukdárs under the provisions of Act VI of 1888 :—

Jama.

“ 4. (1) The jama not to be enhanced more than 50 per cent. above that now levied, subject to the condition that the jama so enhanced shall not exceed 70 per cent. of the total assessment.

(2) When an increase of more than 25 per cent. is sanctioned, it shall be levied by periodic increments usually in the 1st, 3rd and 5th years of the settlement.

(3) Ordinarily the jama of a Tálukdár shall be made up as follows :—

(a) 60 per cent. of the assessment of the cultivated area and of lands kept as grass *birs*.

(b) 35 per cent. of the assessment of waste land, subject to the following :—

When the jama of the waste land exceeds the proportion of 15 per cent. of the entire jama, it shall be added to the jama of the cultivated area by three equal instalments payable in the 8th, 15th and 22nd years of settlement.

Any Tálukdár who may hand over his waste land or any portion of it, provided the area made over is more than 100 acres, to be managed according to the provisions of Section 28 of Act VI of 1888 for a term of not less than 20 years, shall be exempt from demand for jama on account of land so made over during the period of management. It must be understood that occupants of land of the same village or estate shall only be allowed to take up such land under management as they can cultivate in addition to their previous holding.

The Tálukdár making over waste land on the above terms will be entitled to any ‘surplus receipts’ as described in Section 29 (3), and will resume the land ‘subject to leases and occupancy rights, if any, granted during management.’—Section 33 (e) of Act VI of 1888.

Local Fund.

“ 5. The Local Fund demand of a Tálukdár’s holding shall be calculated upon the full survey assessment of all cultivated lands and grass *birs*, or upon 70 per cent. of the entire assessment of the holding, whichever may be the larger amount. Any reduction on the above rating will require special circumstances to justify it.

In the case of any estate which has not been subjected to survey such as that of the Thákor Sáheb of Limbdi, the Collector may offer a settlement of Local Fund at the *kamál* rate or on an estimate of the assessment of the entire estate, including alienations, in lieu of a survey assessment, and, if this is accepted by the Tálukdár within the time given him for acceptance, it may be recorded in the accounts as the Local Fund demand upon his estate for the term of settlement. If it is not accepted, the survey of the estates according to the provisions of Section 7 (clause 3) of Bombay Act III of 1869 should at once be made, and the cess fixed on the results of the survey assessment.

If a Tálukdár shall make over waste land for management on the terms above stated (paragraph 4), the Local Fund Cess, if calculated on 70 per cent. of the entire assessment of his estate, shall be reduced by the proportion of the assessment falling upon the waste land made over, but shall not be less

PART II.] [TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.]

than the cess payable on the *full* assessment of the cultivated area, as above laid down.

The clause in the Tálukdár's jama agreement relating to Local Cess must be omitted in agreements issued under revised settlement. It was framed prior to the passing of Act III of 1869 and is inconsistent with the law as it now stands.

"*7. The foregoing rules will, it may be hoped, be a sufficient guide in determining the demand to be placed upon Tálukdári estates in revision survey. It may further be regarded as the desire of Government that a distinction should be made between the estates held under a rule of primogeniture, of which there are very few in Ahmedabad, and those in which partition obtains. The holders of the former are in a better position to contribute their full share to the public burdens than are many of the shareholders in the latter class, who are now reduced to the position of cultivators. A considerable degree of moderation in the Government demand may conduce to the transformation of the small shareholder class into a body of industrious yeomen; experience has shown that it is not justified by any corresponding public advantage in the case of the Tálukdárs who own large undivided estates.

"10. It may be convenient to note briefly, under each main head of survey operations, the conclusions which may be adopted for guidance, subject always to special conditions which must be dealt with by the Commissioner as they may arise.

Measurement.

"11. Revision should be generally confined to test of boundaries—

- (1) of villages,
- (2) of separate shares or estates,
- (3) of alienations.

As regards (1), should any question be raised as to alteration of boundary by encroachment since the last survey, if the villages interested *belong to the same Tálukdár* the complaint may be made occasion for a more detailed test than the ordinary one, which should be very simple, at the expense of Government; but if the villages belong to *different owners* the complainant should be made to deposit the cost of the extra work entailed, and this should be finally credited to Government if the complaint is found to be vexatious: the amount of deviation from the boundary of the original field book which would establish the complaint as genuine should be determined by the Survey and Settlement Commissioner. Some risk of this kind will be needed to deter Tálukdárs from endeavouring to raise boundary disputes.

The same procedure should be followed in (2) test of internal boundaries of shares or separate estates, where complaint is made of encroachment.

As regards (3) alienations, some more detailed operations will be required in carrying out the provisions of Part II of the new Act.

For immediate revision purposes what is required is—

- (a) test of the boundaries of alienations already recorded in the original survey or by any subsequent demarcation,
- (b) demarcation of areas alienated under decree of the Civil Court, or by transfers duly registered.

Such cases will be known to the Tálukdári Settlement Officer from whom information can be obtained. The demarcation of these areas is needed in order to carry out the settle-

* Paragraphs 6 and 15—22 of this Resolution were cancelled by Government Resolution No. 4733, dated 13th July 1891.

TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.] [PART II.

ment of jama on lands which have passed out of the possession of the Tálukdár class at a higher percentage of demand, as already laid down.

Classification.

"12. A feature of the survey of 1864—1866 was that it took no cognizance of irrigation. The assessment at that time applied to lands watered from wells, &c., was not introduced in Tálukdári villages, and consequently no charge has been laid upon water advantages in the soil. There is but little irrigation for the raising of superior or garden crops in the Tálukdári area, and the assessment of water advantages was originally abandoned by Government for the reasons shown in paragraph 8 of the letter of the Revenue Commissioner, No. 2200A of 12th October 1863. It was proposed by the Commissioner that, in consideration of this exemption, the Tálukdárs should be required to guarantee to their tenants by lease the extra profits made by them through new well irrigation. The form however in which the exemption is recorded in the jama agreements is as follows (clause 7):—'The Sarkár has not fixed during the currency of this lease any higher jama on account of bágáyat cultivation; you should therefore increase this cultivation by every means in your power.' It may be feared that the hopes which were entertained of a more intelligent and progressive management of their estates by the Tálukdárs on their emancipation from debt have not been largely realized, but the causes which led in the original survey settlement of these estates to a policy of moderation in the assessment of the jama must continue to rule the action of Government, and whilst Government refrain from pushing the State demand to a high percentage upon the dry-crop assessment, it would be hardly worth while at present to bring to account the item of water advantage merely to swell the untaxed margin left to the Tálukdár in the record. The existence of any large proportion of well irrigated lands should not however be excluded from consideration in assessing the jama; the percentage of dry-crop assessment to be taken may well be influenced by the fact that the estate embraces areas paying the higher and more constant rental of watered lands; in order, however, to secure due consideration of this factor all that is necessary is a note by the revising officer of the estimated capacity of existing sources of irrigation in cases where they are used to raise superior crops, sugarcane, garden produce, &c., which are few in numbers and mostly, Government believe, confined to the Ránpur Division of Dhandhuka and Gogha. Wells in the rice villages of Dholka and Sánand are also in some cases important aids requiring to be taken into account in the settlement of jama as a proof of the water advantages in the soil; as, however, the dry-crop rates are already high in the Tálukdári villages of these tálukas, this factor will in the present revision be of little moment.

An important item in classification revision which cannot be overlooked is the growth of 'khar;' this is not always permanent, but the benefit of the doubt cannot be safely taken by Survey officers without enquiry, and it may sometimes be found that by alteration of drainage conditions or other reasons the extent of infertility through 'khar' has materially increased.

In villages exposed to the action of water there will also probably be variations due to denudation, deposit of sand or gravel, &c., calling for recognition in revision. All these cases, where material enough to call for notice, will assuredly be made the subject of representations by the Tálukdár or rayats on the visit of the classer or Survey officer. It will be necessary to record variations in rice area, and new rice land should be treated as highest class dry-crop; rice land that has reverted to dry-crop must be dealt with on the merits—it may have permanently lost its water advantage through *natural* causes or through *neglect*. The Survey and Settlement Commissioner can deal with this class of revision claims, if they arise, on some simple principles.

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Settlement.

"13. The entry of the names of holders in the registers of the revised survey must be made in consultation with the Tálukdári Settlement Officer who should furnish the Survey with all the necessary information to correct the existing record as a basis for revision of jama.

Of the particulars to be recorded under Section 5 of Act VI of 1888 the following should be at once registered :—

(a), (b), (c—ii), (d—i) on the existing data as regards sharers and their interests, and (e) with the sub-heads necessary to show the alienations recorded at the original survey and those since demarcated as described above (paragraph 11).

The further particulars to be registered under that section must await provision of establishment for their completion.

The Tálukdári Settlement Officer should be a 'Survey Officer' for the purposes of the new Act and for revision settlement. He should be gazetted as 'a Survey Settlement Officer in the Ahmedabad District' (under Sections 18 and 19, Land Revenue Code), so that his instructions as to the register may be of proper validity.

Of the two operations required for the revision, 1st, the assessment of the land, and 2nd, the fixing of the jama, the former will be conducted by the Survey and Settlement Department with the aid where needed of the Tálukdári Settlement Officer; the latter will be entrusted to the Tálukdári Settlement Officer acting as a Survey Settlement Officer and reporting through the Collector and the usual channels. The assessment of the land should not present any difficulties, as the tálukas to be dealt with have been, or are being, subjected to revision in respect of their rayatwári areas. The Survey and Settlement Commissioner will no doubt be able to turn this work to full account for revision of assessment in the Tálukdári portion.

Where, however, the existing maximum rates of the Tálukdári area are as high as, or higher than, those sanctioned on revision of rayatwári villages, a *prima facie* claim arises for a favourable percentage in the settlement of jama. It will in such cases be necessary for the Survey and Settlement Department to examine the average incidence of the rates in Tálukdári as compared with those in rayatwári villages and to ascertain with reference to classification, grouping, &c., whether the apparent case for favourable jama percentage is made out and to furnish the Tálukdári Settlement Officer with the results of this examination.

There is no need to detail the other data which will be required by the Tálukdári Settlement Officer for the preparation of his scheme of jama settlement; they are either comprised in the register framed under his authority or have been already mentioned in the course of the remarks on revision operations above, such as the extent of cultivated and waste land, appreciable water advantages, &c., &c. Any further particulars not dealt with in the foregoing should be referred through the Survey and Settlement Commissioner for orders.

"14. In the Ahmedabad District there are, beside the Tálukdárs whose estates were settled between 1863 and 1866 on the Tálukdári tenure, the two other classes, 'Kasbátis' and 'Mevásis' who are mentioned in the Act VI of 1888. The Kasbátis are not proprietors of their holdings but lease-holders; their villages have been surveyed in the ordinary way and the principles upon which their leases are given are fully understood. Revision operation should be of the simplest character. The Mevásis of the Parántij Táluka do not practically differ from the ordinary Tálukdárs of the western tálukas in their status or tenure, and the same principles should be followed in their revenue settlement."

(G. R. No. 4580, dated 27th June 1899.)

TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.] [PART II.

2. Every Tálukdár's estate is held subject to the payment of jama to Government. Government have the right to fix the amount of the jama at their pleasure, and whatever may have been the methods from time to time adopted in arriving at the amount, the jama always has been, and must be regarded as a payment made on account of the estate as a whole. By the Tálukdárs' Act VI of 1888 this jama is defined to be the *land revenue* payable by a Tálukdár to Government, and the position of the Tálukdár in regard to his estate is defined (*vide* Section 33, Clause 2 (*m*)) as that of an occupant of an unalienated holding, though with one or two of the privileges as particularly specified of a holder of alienated land. Hence it follows that no part of Tálukdár's estate can be regarded for the purposes of Section 22 of the Tálukdárs' Act as "wholly or partially exempt from land revenue," and that in the absence of any special conditions or restrictions, every Tálukdár is liable to pay by way of jama on his estate the full assessment on all lands comprised in it, subject only to such deduction as Government may, with regard to the circumstances of each case, see fit to direct. Government cannot admit any right on the part of the Tálukdárs to claim an enquiry or to object to the amount fixed as jama on any ground arising out of the details of its calculation, so long as it does not exceed the total survey assessment. But while Government cannot permit their right to be disputed, it is obviously necessary to give equitable consideration to the position of the Tálukdár and fix his jama with reference to what he may reasonably be expected to pay. (G. R. No. 8455, dated 15th October 1894.)

3. The survey assessment must be held to indicate the productiveness of the estates if properly managed, and the proportion of 60 per cent. of the assessment of cultivated land should be maintained as the main part of the demand. A right to a share of the assessment of waste land should not be foregone, but when the application of the rules laid down in Government Resolution No. 4580, dated 27th June 1889, appears from the circumstances of the estate to result in a higher jama than can be afforded, the abatement should in the first place be so far as is necessary in the proportion of the assessment on waste land. If any reduction of the jama calculated in accordance with the orders of 1889 further than the total exclusion of demand on account of waste land is found necessary, it should be based on a consideration of the general condition of the estate and the resources of the Tálukdár. It cannot be acknowledged that Tálukdárs ever had the power of curtailing the Government dues by mortgaging, selling or otherwise alienating land. (G. R. No. 4656, dated 20th June 1895.)

4. The following concessions should be allowed in recovering from the Tálukdári estates in the Dholka Táluka of the Ahmedabad District the revised Local Fund contributions calculated in ac-

PART II] [TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.

accordance with the instructions contained in paragraph 5 of Government Resolution No. 4580, dated 27th June 1889 :—

(1) Where the increase is over 50 per cent. and less than 100 per cent., it should be taken in three equal biennial instalments.

(2) Where it is more than 100 per cent. and less than 200 per cent., it should be taken in five equal biennial instalments.

(3) Where it is more than 200 per cent. and less than 400 per cent., it should be taken in seven equal biennial instalments.

(4) Where it is more than 400 per cent., it should be taken in ten equal biennial instalments. (G. R. No. 2090, dated 20th March 1893.)

TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.] [PART III.

PART III.—TA'LUKDA'RS' JAMA.

1. A táluka or a portion of a táluka is not to be sold for arrears of jama, except as a last resource to collect the Government dues, and no such sale should be finally carried out except with the previous sanction of the Commissioner. There is also the danger of fraudulent sales through the Civil Courts. To guard against such frauds by the greatest possible publicity, all sales of Tálukdári estates or portions thereof shall be conducted by the Collector on the requisition of the Court under Section *248 of the Civil Procedure Code (1859), and the Collector will then consider whether the provisions of Section* 244 of the same Code may not be applied to stay the sale and satisfy the decrees by other means. (G. R. No. 3975, dated 21st September 1865.)

*Cf. Sections
286 and 326
of Act XIV of
1892.

2. No deductions on account of service lands held by Desáis or other hereditary officers in Mewási villages should be made in fixing the rentals of such villages. Act VII of 1863 should not be applied to alienated lands in Mewási villages, nor to similar lands in the Udhád Jamábandi villages in Kaira. (G. R. No. 4195, dated 3rd December 1867.)

3. Tálukdári lands are charged with land revenue due to Government, and may, therefore, be declared forfeited if the land revenue remains unpaid. (G. R. No. 116, dated 6th January 1881.)

4. As regards the nature of the Tálukdárs' jama, it is as much the full land revenue of those estates as the survey assessment is of ordinary occupied numbers. To obtain a gauge or standard for the purpose of fixing the Tálukdárs' jama, their estates were surveyed and assessed, but it was never intended to establish the full assessment as the Government demand and treat any difference between that and the sum actually fixed as jama in the light of an alienation. The Tálukdárs pay for their villages or estates in the lump, and their jama † is a sum of land revenue fixed from time to time at the pleasure of Government. It is less than the full assessment the lands would bear if they were held in detail as ordinary occupied numbers, because the Tálukdárs bear some of the charges of local administration. (G. R. No. 9354, dated 26th November 1884.)

5. Tálukdárs are clearly liable for the payment of the full jama due from them, whether they have alienated lands or not. Each case must be treated separately on its own merits in the matter of concessions regarding the amount of jama to be exacted. (G. R. No. 4738, dated 13th July 1891.)

6. In the determination of jamas regard should be had to the income of the estate, when it can be accurately ascertained, as well as to the survey assessment, and the Tálukdári Settlement Officer has

† In Section 2 (c) of Bombay Act VI of 1888 jama is defined to mean land revenue payable by a Tálukdár to Government.

PART III.] [TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.

the liberty for good and sufficient reasons to recommend a jama amounting to 50 per cent. of the income of the estate, notwithstanding that the jama so determined may amount to more than would have been leviable under the orders of 1889. (G. Rs. Nos. 8484, dated 28th October 1896, and 2262, dated 23rd March 1897.)

7. On the introduction of revised assessments in Tálukdári estates, nothing in the shape of a jama karár should be issued, but all recovery of Government dues should be made strictly in accordance with law.

The Tálukdárs should be leniently treated as regards calculation of jama on alienated lands.

In introducing a revised settlement such formalities may be followed as may save the dignity of Tálukdárs, but nothing should be done which may directly or indirectly raise friction as to the legal liability of payment of Government dues.

(G. R. No. 4387, dated 21st May 1892.)

8. In announcing jama settlements, no particulars should be given, but only the area and assessment as compared with the jama decided on. These orders do not override Section 213 of the Land Revenue Code under which survey records are open to the inspection of the public, and copies are to be given to persons applying for them on payment of prescribed fees. (G. Rs. Nos. 4656, dated 20th June 1895, and 6366, dated 21st August (1895).)

9. Tálukdárs owning "Bhatha" lands will be allowed in any year to make an application to the Collector for revision of the "Bhatha" area, if they consider it has decreased to an appreciable extent. Such applications must be submitted before 31st December each year. If after due inquiry the Collector is of opinion that the jama should be revised in consequence of a falling off in the area of the "Bhatha" land, the sanction of Government should be obtained to the alteration in the amount. (G. R. No. 8836, dated 10th November 1892.)

TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.] [PART IV.

PART IV.—MANAGEMENT OF TA'LUKDA'RS'
ESTATES BY GOVERNMENT OFFICERS.

1. In the case of a Tálukdári estate placed under attachment under Section 144 of the Land Revenue Code, the Collector has power to utilize the balance in his hands in paying off valid charges on the land. Section 144 provides that the surplus profits 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*. The words italicized distinctly authorize payment of the balance to mortgage creditors who must be included, along with the owner, in the category of persons entitled to the surplus profits. The Collector incurs no risk in paying off mortgage debts, provided he exercises due care and caution, and only discharges such as are valid charges on the estate. (L. R. No. 1199, dated 9th September 1887; *vide* G. R. No. 6607, dated 20th idem).

2. The surplus receipts in the hands of the Tálukdári Settlement Officer, which under Section 29 (3) of the Gujarát Tálukdárs' Act, 1888, he is bound to pay over to the Tálukdár or Tálukdárs whose estate is under his management, constitutes a 'debt' which, under Section 268 (a) of the Civil Procedure Code, judgment-creditors of the Tálukdár or Tálukdárs could cause to be attached in execution of their decrees. (L. R. No. 1112, dated 3rd July 1891; *vide* G. R. No. 4797, dated 15th idem.)

3. Care should be taken to give to Tálukdári villages under the management of the Tálukdári Settlement Officer their fair share of the Local Fund collections derived from them in the form of works of local utility. (G. R. No. 8641, dated 14th November 1889).

4. The Tálukdári Settlement Officer, when asking sanction for advances from the Government Treasury in connection with the settlement of the debts of estates brought under his management, should report whether the advance proposed in each case can be met out of the budget allotment made during the year for advances to Tálukdári estates. (G. R. No. 7145, dated 8th October 1890.)

5. Management of an estate under Section 26 of the Gujarát Tálukdárs' Act, 1888, is directed simply in the interests of the inferior holders or for the peace of the country. Hence all surplus receipts have to be paid from time to time to the Tálukdár under Section 29 (3) of the Act, and he alone is responsible for payment of his own debts. The only liabilities which the Collector or his agent may legally defray are those named in Section 29 (3), *viz.*: (1) the costs of his own management of the estate, (2) current land revenue and all arrears thereof, and (3) cost of a revenue survey, if any be extended to the estate. The Collector or his agent should have no concern in any suit for any liabilities which do not relate to his management. If made a co-defendant in any

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such suit, his reply should simply be that he has been unnecessarily made a party to the suit and has no interest in its subject-matter. Even if a portion of the estate should be attached or sold for the Tálukdár's debts, the Collector or his agent should not resist or object, but leave to the Tálukdár to defend his own interests, informing him perhaps, if it is thought desirable, that he had better do so. (L. R. No. 830, dated 12th May 1891; *vide* G. R. No. 3592, dated 26th *idem*.)

6. Section 28 of the Gujarát Talukdárs' Act, 1888, does not appear to contemplate the management by the Tálukdári Settlement Officer of part of an estate. The phrase 'portion of an estate' is frequently repeated throughout the Act, whenever its provisions are intended to apply to less than the whole of an estate. The omission of that phrase in Section 28 would seem, on the maxim *expressio unius est exclusio alterius*, to indicate the intention of the Legislature that charge should not be taken by a Government officer of anything less than 'the agegregate of a Tálukdár's interests in the lands which he holds.'

An undivided share is expressly excluded from such management by Section 28. An undivided share no doubt means one held in joint tenancy. But this express exclusion is because technically an undivided share is an estate, and the express reference to an undivided share does not therefore necessarily imply that any portion of an estate which is not held in undivided coparcenary can be taken in management.

The intention seems to be that a Tálukdár should either place all his estate, or none, in charge of the Tálukdári Settlement Officer or other officer appointed.

(L. R. No. 1078, dated 15th July 1892; *vide* G. R. No. 6190, dated 1st August 1892.)

7. The estate of a Tálukdár can be taken charge of and managed under Section 28 of the Gujarát Tálukdárs' Act, 1888, but the nature of the estate cannot be altered by the Tálukdár or the officer managing the same. A Tálukdár's estate in property, which is in the possession of a mortgagee, is limited to a bare equity of redemption, and Section 28 would not empower the Tálukdár to convert that into a legal estate with possession so as to deprive the mortgagee of his possession. But the Tálukdári Settlement Officer or other officer appointed for the purpose may no doubt represent the Tálukdár so far as his equity of redemption is concerned, and could therefore receive, examine and contest any accounts which the mortgagor may be entitled to receive of the mortgagor's usufruct. But no power is given to disturb any one in lawful possession without his consent, whether he be mortgagee or not. (L. R. No. 253, dated 6th March 1893; *vide* G. R. No. 2052, dated 18th *idem*).

TA'LUKDA'RS AND TA'LUKDA'RI ESTATES.] [PART V.

PART V.—LEGAL OPINIONS.

1. To the questions whether the sanction of Government is necessary to sales of Tálukdárs' estates taking place subsequent to the coming into force of Bombay Act VI of 1888, in pursuance of contracts made prior to the Act, and whether such sanction is necessary to a sale intended to satisfy a debt contracted before the passing of the Act, Section 31 (2) appears to furnish a complete answer. Nothing, after the coming into force of the Act, can effect a transfer of ownership (Section 2 (1) (d),) unless the sanction of the Governor in Council has been obtained previously. All transactions which, prior to the coming into force of the Act, have already effected such a transfer, are of-course unaffected by the requirements of the section. But no transaction falling short of such a transfer will validate an unsanctioned alienation after the Act comes into force.

Government would not sanction any alienations unless they were absolutely necessary for preserving an estate from complete ruin or for the protection of Government revenue ; and the Tálukdári Settlement Officer should apply for the sanction of Government only in cases which, in his opinion, fall under this category. Such applications would, of course, be submitted through the Collector. In all other cases the plaintiff who asks for sanction should be referred to Government.

The sanction should precede the issue of the certificate of sale. In a sale of immoveable property the title vests in the purchaser under Section 316, Civil Procedure Code, "from the date of the certificate and not before."

An auction held before the sanction was obtained
 I. L. R., 9 B., 10. would give only an inchoate
 I. L. R., 10 B., 453. right, and the alienation could
 not be completed by issue of
 certificate until sanction had been obtained. A
 Court-sale will not be invalid merely by reason that
 the property had been put up to auction before the
 sanction could be obtained, and it is possible that
 before according sanction, Government might desire
 to know the amount of the bid.

The procedure, where sanction to the sale is refused, would be the same as in any other case in which a darkhást had been disallowed, as asking for the sale of property not liable to be sold. The darkhást would be rejected, and the decree would be treated as still unsatisfied, and if incapable of satisfaction out of other immoveable property of the judgment-debtor, would apparently be returnable to the Court from which it had been transferred.

No agreement would be necessary to bind the purchaser at a Court-sale to pay the Government jama. The obligation to do so would be not only a condition in the notification and certificate, but

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an essential to the validity of the sanction itself. (L. R. No. 1549, dated 12th December 1869, and G. R. No. 42, dated 3rd January 1890.)*

* In connection with this Resolution and the two following Resolutions (Nos. 237, dated 10th January 1893, and 2132, dated 23rd March 1893), the subjoined reports of the Remembrancer of Legal Affairs are cited here for ready reference:—

- (1) *Memorandum from the Remembrancer of Legal Affairs, No. 1810, dated 15th December 1894.*

Vide G. R. No. 74, dated 5th January 1895.

The question raised in the accompaniments to Government memorandum No. 6678, dated 9th August 1894, is whether it will be possible to dispute the correctness of the law laid down by the High Court in the case noted in the margin.

Appeal No. 454 of 1893 from Appellate Decree.

Nagar Prágji ... Appellant (Original Applicant),
vs.
 Jivabhai Bávaji. Respondent (Original Opponent).

2. That ruling is to the effect that Section 31 (1) of the Gujarát Tálukdárs' Act, 1868, leaves to mortgagees whose liens were created before the passing of the Act, the full remedy which, at the time when those liens were created, the Courts would have given them, *i. e.*, the right, notwithstanding Section 31 (2) of that Act, to convert, without obtaining the sanction of Government, the incumbrance "as defined in Section 2 (1) (c) into an alienation."

3. In that case there was no appearance for the respondent (the Tálukdár), and arguments may, on opportunity offering hereafter, be adduced in support of the Tálukdári Settlement Officer's view.

4. It is unquestionable that ordinarily it is not to be presumed that retroactive effect was intended to be given to legislation affecting vested rights. But as shown in the case of Phillips *vs.* Eyre (L. R. 6 Q. B., 1), this rule is not of universal application. Exceptions have been recognized by the Bombay High Court on grounds which, it might be urged, were applicable in the present instance.

Williams *vs.* Smith, 28 L. J. Ex., 286.
 Pryor *vs.* Pryor, 10 Ch. App., 469.
 I. L. R., 15 Bom., 81.
 3 B. H. C. R., 45, O. C. J.
 5 M. I. A., 109.
 Page *vs.* Bennett, 29 L. J. Ch., 393.
 Maxwell on Interpretation of Statutes, 257-258.

5. Thus at I. L. R., 8 B., 340, Mr. Justice (now Sir R.) West said: "There is another principle enunciated by Savigny which, like the dictum of Willes, J., already referred to, has an important bearing on the case. It is this, that a law passed to promote some important public interest may be given on that account a retroactive operation if necessary, as the rule against such operation rests itself on such a general public interest, which may, under the circumstances, be deemed of less importance than the one embodied in the Statute. The purpose of the Dekkhan Agriculturists' Relief Act was undoubtedly to shield the property of agriculturists against their creditors, and this purpose we cannot but see was considered by the Legislature one of great public importance: thus only are the anomalous provisions of the Act to be accounted for. Such a purpose so manifested we cannot suppose to have extended only to the cases of attachments made after the Act had come into force." (Cf. I. L. R., 10 B., 367, and I. L. R., 14 B., 516).

6. It might be urged that the provisions of Section 31, though they do not affect an *incumbrance* created prior to the Act, do operate to prevent any incumbrance (which is an interest *other* than that of an alienee or person to whom ownership is transferred) becoming after the Act an alienation or transfer of *ownership* (*vide* Section 2 (1) (d) and (e)) and that otherwise the protection aimed at would be inoperative for sixty years (Article 147, Schedule ii, Indian Limitation Act, 1877) and the intention of the Legislature would be defeated.

7. The validity of the pre-existing mortgage *as such* with the right to possession for satisfaction by apperception of profits is recognized in Section 31 (1).

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In the case marginally noted, the High Court (the Chief Justice and Telang, J.) have decided that Section 31 (2) of Bombay VI of 1888 has no retrospective effect as against vested rights acquired under a decree passed before the Act on a mortgage-bond.

Judgment in Appeal
No. 586 of 1891 from
Appellate Decree.

Kalián Moti.
vs.
Pathubháí Faljibháí.

The cases in the margin are given as authority for this decision, and appear fully to support it. Other decisions to similar effect are I. L. R., 15 B. 81, 3 B. H. C. R., 45, O. C. J., 5 M. I. A., 109, and Page *vs.* Bennett, 29 L. J. Ch. 398. The case of Thompson *vs.* Waithman, 26 L. J. Ch., 134, might have been quoted as an authority on the other side, but its weight is impaired by the reversal of a case which followed it, *viz.*, Jackson *vs.* Woolley, 27 L. J., Q. B., 181 and 448.

It seems that the decision must be accepted as authoritative in cases where a decree for the sale of specific property had been obtained *before* the passing of the Act, as then the decree-holder is to be regarded as having a vested interest in which Section 31 (2) would not, in the absence of express words, retroact.

But Section 31 (2) clearly expresses the intention of the Legislature that no transfer of ownership shall without the sanction of the Governor in Council take place after the Act comes into force, and this, it may be urged, indicates the intention of the Legislature that the provisions of the section should operate retrospectively so far at least as concerns the form of

Maxwell on Interpretation of Statutes,
266 to 269.

I. L. R., 14 B., 516.

These are the only arguments that suggest themselves, and it may be worth while to submit them for consideration in some future case, though in view of the decision in the case referred to in the papers it is impossible to feel at all confident of a favourable result.

(2) Letter* from the Remembrancer of Legal Affairs,
No. 847, dated 26th July 1895 :

"With reference to Government Resolutions Nos. 74 and 2370, dated, respectively, 5th January and 23rd March 1895, I

Regular Appeal No. 53 of 1894.

Fulchand Jesang

vs.

The Collector of Ahmedabad.

Court on the 8th instant, but the judgment was delivered on the 15th instant.

"2. The Court held that the right acquired by the mortgagee prior to Bombay Act VI of 1888 was not affected by that Act, and that he was therefore entitled to a decree on his mortgage, but whether he could bring to sale the mortgage property without obtaining the sanction of Government, having regard to the provisions of Section 31, clause (2), was a question which the Court thought it was premature to consider at this stage. As, however, the case in I. L. R., 119 Bom., 80, was referred to by the appellant's counsel in the course of his arguments, the Court thought it right to remark that it doubted the correctness of that ruling, and that if the question again came up for decision, the Court might feel inclined to refer it to a Full Bench. The Court accordingly gave to the plaintiff a decree nisi with liberty (if the mortgage debt be not paid within six months) to apply for a decree absolute and sale.

* *Vide G. R.*
No. 6063,
dated 9th
August 1895.

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The questions raised in the preamble to Government Resolution No. 42 of 3rd January 1890 appear to refer to cases in which the creditor had obtained a decree and order *after* the passing of the Act, and in such cases it may still be open to question whether the sanction of Government would not be necessary to give validity to the alienation of the Tálukdár's estate or any portion thereof or share or interest therein.

The case of *Williams vs. Smith*, 2 H. & N. 443, S. C., 28 L. J. Ex. 286, relied on in the judgment of the High Court decided that an Amendment Act would not operate on a writ of execution delivered *before* the passing of the Act, and it was observed "the *fiere facias* had begun to operate before the Statute passed and was in full vigour at that time. We cannot give the Statute a retrospective effect so as to deprive the debtor of any right he *possessed* under his writ."

The question of the retroactivity of legislation on execution proceedings was discussed at great length and with great differences of opinion in the case at I. L. R., 2 B., 148, and Sir Charles Sargent held that the amending legislation operated on all matters of procedure in execution subsequent to the Act coming into force. But Sir M. Westropp held the new Act to apply only to execution proceedings initiated after it came into force, and the majority of the Court adopted this view.

Apparently in case of execution sought against a Tálukdár's estate on a money decree passed prior to the passing of Bombay Act VI of 1888, in which no specific property was by the decree declared liable, it might be urged that no vested right in any specific property of the Tálukdár had been acquired, and that Section 31 (2) would, therefore, operate to bar a sale without sanction.

The word "alienation" as defined in Section 2 (d) of the Act means a transfer of ownership, and therefore except in cases where, prior to the Act, the right to obtain a transfer of ownership has been judicially declared, the Legislature may be presumed to have intended that no such right should be acquired without the sanction required by Section 31 (2).

The right which the holder of a mortgage-decree ordinarily puts up to sale is the right, title and interest of his judgment-debtor as it stood at the time of the mortgage (7 B. H. C. R., 146), but under an ordinary money decree, all that the decree-holder puts up to sale is the right, title and interest of the judgment-debtor at the date of the auction and no vested right in specific property having been obtained before the passing of the Act, Section 31 (2) would, it might in such cases be reasonably contended, affect the alienability of the judgment-debtor's estate.

(L. R. No. 1740, dated 14th December 1892; *vide* G. R. No. 237, dated 10th January 1893.)

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2. If a mortgage decree was passed prior to the passing of the Gujarát Tálukdárs' Act, 1888, the mortgagee has a vested interest which that Act cannot by retroaction affect, and Section 31 (2) of that Act would not therefore render sanction indispensable to the validity of the sale. If the property mortgaged is an undivided share, the purchaser of the undivided share would have to obtain partition if he desired possession of a specific portion of the undivided property, but that fact would not prevent the vested interest of the mortgage decree-holder in obtaining the sale of the judgment-debtor's right, title and interest from remaining unaffected by the legislation which came into force subsequent to the acquisition of his rights. (L. R. No. 254, dated 6th March 1893; *vide* G. R. No. 2132, dated 23rd *idem*.)

3. The following opinion (No. 52, dated 12th January 1892) was recorded by the Remembrancer of Legal Affairs on the question whether the Tálukdári Settlement Officer may consider himself authorized, when his permission is applied for by a Tálukdár under Section 31 of Act VI of 1888 for borrowing money on the security of his estate, to have entered in the document executed at the time of the loan when such is the desire of the lender and borrower, a clause to the effect that on failure of payment of one of the fixed instalments of the debt or some other similar contingency, the management of the mortgaged lands shall be taken over by the Tálukdári Settlement Officer, the surplus profits being devoted by him to the liquidation of the debt incurred by their owner:—

“On the principle *expressio unius est exclusio alterius* the effect of Section 28 of the Gujarát Tálukdárs' Act (Bombay Act VI of 1888) is, I think, to restrict the power of the Tálukdári Settlement Officer to take over the management of a Tálukdár's estate at the Tálukdár's request to cases in which the conditions of that section are fulfilled. That is to say, it is not lawful for the Tálukdári Settlement Officer to take over the management of such an estate, by desire merely of the Tálukdár, unless the Tálukdár makes a written application in this behalf and Government sanctions his doing so. And I agree with the Tálukdári Settlement Officer that the sanction of Government should be specific for each case and may not be given generally.

“2. Taking this view of the law, the proposal of the Tálukdári Settlement Officer appears to me to be one which he cannot legally adopt. An agreement executed some months, perhaps some years ago, and executed possibly not by the present Tálukdár, but by his deceased predecessor in title, would not be a sufficient authority to the Tálukdári Settlement Officer to take over the management; he must be furnished with a written application from the Tálukdár, and that application must be a plain document such as the name 'application' implies and not an agreement, with a penalty attached to it, such as it would be if it were made to have effect only in the contingency of the Tálukdár failing to pay money to his sowkár.

“3. Assuming that a Tálukdár passed an agreement to his sowkár of the description which the Tálukdári Settlement Officer contemplates, it would not be legally competent to the latter officer, even if Section 28 of the Tálukdárs' Act did not exist, to take over the management of the Tálukdár's estate at once on the happening of the specified contingency, without

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the consent of the Tálukdár. He could not even obtain possession by a suit against the Tálukdár on the strength of the bond, for as he *ex hypothesi* would not be a party to the bond he could make no claim under it. And an agreement made by the Tálukdár with the Tálukdári Settlement Officer would be *nudum pactum* for want of consideration. The bond between the Tálukdár and his sowkár could only bind the former, on the happening of a certain contingency, to apply to the Tálukdári Settlement Officer to take over the management of the estate; and if when the time came he or his successor in interest declined to do this, the most that could happen would be that a suit would lie on the part of the sowkár against him either for specific performance or for damages.

"4. With reference to paragraph 5 of the Tálukdári Settlement Officer's No. 1116 of 24th November 1891, I would suggest that the form of mortgage with possession called in the civil law 'antichresis,' and which is not unknown in some parts of this Presidency, is not open to the objections which the Tálukdári Settlement Officer mentions. It is a mortgage by which immoveable property is made over to the possession of the lender of money on the understanding that the profits which he may derive from it are to be enjoyed by him in lieu of interest on his money; so that the mortgage comes to an end whenever the borrower repays the principal merely. If it should be found possible to encourage this form of mortgage between Tálukdárs and their sowkárs, much subsequent bitterness of feeling and fraud and litigation might, I think, be avoided."

(G. R. No. 625, dated 27th January 1892.)

4. With reference to Section 2 (1) (f) of the Gujarát Tálukdárs' Act, 1888, the word "estate" must be held to have in that Act the same meaning which is ascribed to it in Section 3 (5) of the Bombay Land Revenue Code, 1879. Its meaning is, therefore, the aggregate of the interests in lands vested in any person.

But in the former Act the word is qualified by having prefixed to it either the word "Tálukdári" or the words "a Tálukdár's." A perusal of the Act proves, I think, that the terms "a Tálukdári estate" and "a Tálukdár's estate" are used in it interchangeably; the meaning of each of the two expressions is the same.

What constitutes "a Tálukdári estate" or "a Tálukdár's estate" must be gathered from the general purposes and provisions of the Act. It seems that it is intended to comprise only the aggregate of a Tálukdár's interests in lands which he holds, as such, *i.e.*, in lands which he holds on the Tálukdári tenure. The purposes of the Act, as set forth in its preamble, and the detailed provisions which it contains, all seem to me to point unmistakably to the conclusion that the Legislature, in making this law, had only this class of interests in contemplation. This is especially clear with regard to alienations of a Tálukdár's estate or of any portion thereof, which by Sub-section (2) of Section 31 are declared to be invalid, unless made with the previous sanction of the Governor in Council; because the condition on which alone such sanction may be given, which is prescribed in the latter part of the Sub-section (2), can only apply to a jama-paying estate, *i.e.*, to one held on the Tálukdári tenure.

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For these reasons, Sub-section (2) of Section 31 of the Tálukdárs' Act does not apply to immoveable property held by a Tálukdár on any tenure other than the Tálukdári tenure.

(L. R. No. 571, dated 20th April 1892; *vide* G. R. No. 4020, dated 9th May 1892.)

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PART VI.—MISCELLANEOUS.

1. *Encumbered Tálukdári Estates.*—In the settlement of encumbered Tálukdári estates brought under Bombay Act VI of 1862, in cases where debts have accumulated and creditors are being compounded with, those who are able to support themselves should be required to do so, instead of being continued in the enjoyment of incomes to which, until the debts are paid off, they have no just claim. It seems so desirable to incite the Girassias to exert themselves to labour and develop their estates that His Excellency in Council would regret any arrangement which would be calculated to perpetuate their habits of idleness and indolence. The members of the Girassia families should be encouraged to take portions of the land of the estates with which they are connected, and cultivate them on their own account, at a reasonable rental to be paid to the representative of the estates to assist him in paying the Government jama. (G. R. No. 1445, dated 16th April 1864.)

2. *Kasbátis.*—In Kasbáti villages, in every case where the family of the original grantee may become extinct, the village should be declared Khálsa.

The right to succeed to the enjoyment of a Kasbáti lease is to be strictly limited to the issue, male or female, of the last lessee. It is not to extend to collateral heirs as well.

(G. Rs. Nos. 4523, dated 25th July 1877, 5276, dated 29th August 1877, 10616, dated 28th December 1896, and 9322, dated 28th December 1897.)

3. Government are satisfied of their right to resume all alienations made by Kasbátis during their tenure. (G. R. No. 2901, dated 4th June 1880.)

4. The following form for Kasbáti leases has been approved by Government :—

This Assurance is made the day of
18 between the Secretary of State for India in
Council of the one part and (hereafter
called the Lessee) of the other part.

The Secretary of State for India in Council doth hereby lease unto the Lessee the village of
situate in the Registration Sub-District of
and in the táluka of the Ahmedabad Col-
lectorate. To hold the same from the day
of 18 for the term of years at the
yearly rental of rupees to be paid in such instal-
ments on such dates and to such person as may
be from time to time prescribed and designated
by the Collector of Ahmedabad.

And the Lessee hereby covenants and agrees with
the Secretary of State in Council :

1st.—That he will not sell, mortgage or in any
other way whatsoever alienate, charge or encumber
the said village or any portion thereof ;

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2nd.—That in the event of the said village or any portion thereof being at any time attached by or under the orders of a Civil Court, this Lease shall forthwith determine;

3rd.—That he will himself manage the said village, and not make it, or any portion of it, over to any other person to be managed in his behalf;

4th.—That he will make and maintain proper police arrangements, to the satisfaction of the District Magistrate of Ahmedabad, for the prevention and detection of robberies and thefts and the preservation of peace and order in the said village;

5th.—That he will regulate his demands upon the rayats of the said village in accordance with the system of Bhágbatái hitherto prevailing therein and will levy from them such rents and other dues as may be customary according to the village "dháro" and no more;

6th.—That he will pay the rental hereinbefore reserved at the times and in the manner hereinbefore provided for, and that if any instalment or any portion of any instalment of the same shall be in arrear it shall be recoverable from him under the provisions of the law for the time being in force for the recovery of arrears of land revenue;

7th.—That he will also pay Local Fund Cess and all other rates and taxes (if any) which shall at any time during the continuance of this Lease be payable in respect of the said village or any part thereof;

8th.—That on the expiration or sooner determination of this Lease he will yield up the said village without obstruction or objection, unless the Secretary of State in Council shall then be pleased to renew the said Lease for a further term:

Provided always, and it is hereby agreed that if and whenever there shall be a breach by the Lessee of any covenant, condition, or provision herein contained, and that if and whenever this Lease shall lawfully determine the Secretary of State in Council may re-enter upon the said village and resume the management thereof, and thereupon this Lease shall be null and void.

And it is hereby further agreed between the parties that in this Lease the words "Secretary of State in Council" shall include the Secretary of State in Council, his successors and assigns, and that the word "Lessee" shall include the Lessee and the heirs of his body male and female and their administrators, but shall not include any other heir of the said Lessee or any assign, and that in the event of the death of the Lessee and of the heirs, if any, of his body male and female during the continuance of this Lease the same shall forthwith determine.

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In witness whereof the Tálukdári Settlement Officer has by order of the Governor of Bombay in Council attached his signature on behalf of the Secretary of State for India in Council to one part hereof remaining with the Lessee, and to the other part thereof remaining with Government the said has attached his signature the day and the year first hereinbefore written.

(Signed)

Signed by

in the presence of

(G. R. No. 5118, dated 7th October 1878.)

5. *Panch Maháls Tálukdárs.*—In the Tálukdári estates in the Panch Maháls the local fund cess should, as a general rule, be levied on the kamál; but each case should be separately considered, as where much of an estate is waste, the levy of the cess on the kamál will fall with great severity on a Thákor. (G. R. No. 6900, dated 17th November 1877.)

6. The Tálukdárs of the Panch Maháls must be regarded as private landholders subject to the provisions of such laws as are in force relating to succession to landed estates, and all claims to succession should be heard by the ordinary civil tribunals. Government have not reserved any political power to decline to recognize adoptions or in any other respect to modify in regard to the Tálukdárs the law in force for private persons. (G. R. No. 6842, dated 15th September 1883.)

7. The antecedents of the Thákors of the Panch Maháls are similar to those of the Tálukdárs of Ahmedabad; the leading principle of the dealings of Government with the former as with the latter should be non-interference with internal administration as long as it can be maintained, and the principles of law appropriate when intervention is necessary are contained in Bombay Act VII of 1863, Section 3, and Bombay Act V of 1879, Sections 159—160.

It may be practicable to raise some revenue from alienees in these estates, but this can be done only at the cost of a departure from the principle of non-interference in the internal management. The Government revenue from the Thákors' estates has been settled so as to increase considerably in the course of a twenty years' settlement, and this may be held to suffice.

But it is necessary to take some steps to arrest the process of alienation of lands on which Government have a claim for revenue without protection of the Government rights. The first measure for this object is the preparation of a complete classified register of existing alienations. The second measure is to make it distinctly known by notification to the Thákors and similar land-holders and to all

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the persons to whom they in future grant or sell or mortgage land out of their estates, that Government will not recognize the alienation of any land in future free of liability to be assessed to land revenue.

Government will not recognize among existing alienations lands held by the Thákors themselves as gharkhed or khangí, or lands held by their families for maintenance or lands held for service. All such lands will be regarded at the renewal of the jama settlements as lands the assessment of which may be taken into account in fixing the jama. But present jama settlements need not be altered with reference to such lands exempted from the calculation on which they are based.

His Excellency in Council does not propose to attempt the levy of any judi on lands such as devasthan and inám holdings which are admitted as recognized alienations. It is desirable that all that is possible should be done to identify them, in order that if the estates are surveyed hereafter they may be demarcated. (G. R. No. 6155, dated 30th July 1885.)

8. *Relations between the Girassias and their tenants.*—It is only by holding out inducements, such as the letting out of their waste lands on easy terms and for a fixed period of years, that the Girassias can expect immigrants to flow into their villages, and that they can hope to become prosperous. The ignorance of the Girassias may prevent their seeing or understanding this for a time at least, but the efforts of the Settlement Officer should be directed to this point, with the view of placing the relations between the Girassias and their tenants on a satisfactory footing.

No measure would be productive of greater benefit to the Tálukdárs themselves than to follow the course which Government have, with such successful results, adopted with their own tenants-at-will under the survey settlement, by inducing the Tálukdárs to give their cultivators leases corresponding in length to the term for which their own settlements will run. Measures should, however, be taken to secure to the cultivators, wherever the *dháro* exceeds the survey rates, some share at least in the benefit of the remission which the settlement of the jama on the basis of those rates, instead of on a calculation according to the *dháro*, may yield.

(G. R. No. 1845, dated 11th May 1864.)

9. *Rights of Tálukdárs over minerals existing in lands in their possession.*—A Tálukdár possesses no rights to mines and minerals in the lands which he holds from Government on payment of jama. Government have no objection to the disposal by the Tálukdárs of minor products, such as stone and kankar, occurring in their lands. When such products are required for a public purpose they should not be removed from a tálukdári holding without either the consent of the Tálukdár or proper payment

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if such be demanded by the Tálukdár. The right of a Tálukdár to cultivate the land in a river-bed included in his estate may be continued, without question, according to the existing usage, and where the stream or river is the boundary of a tálukdári holding, the Tálukdár's rights over the part of the river-bed in his estate (*i. e.*, up to to the middle of the stream) may be regarded as being the same as his rights over the other lands of his estate. (G. R. No. 5096, dated 6th August 1898.)

10. *Wánta and Talpad*.—Though originally 'wánta' and 'talpad' denoted shares in the same village at the time of the Mussalmán conquest, when one-fourth of the village was allotted to the former holders of the village as wánta and the remaining three-fourths was kept by the conquerors as talpad, they are now so distinct that they cannot be treated as definite shares of one and the same village. Wánta in Gujarát, in Wilson's Glossary, is said to denote land either exempt from assessment or held at a quit-rent, chiefly by Rájputs; the tenure is prescriptive of remote antiquity without any deeds

* See High Court's judgment in Dolsang Bhavsang vs. The Collector of Kaira. or grants.* (L. R. No. 439, dated 13th April 1882; *vide* G. R. No. 2855, dated 1st May 1882.)

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J.—MERCHANDISE MARKS.

1. Business connected with the working of the Indian Merchandise Marks Act, 1889, is administered in the Department of Finance and Commerce of the Government of India, and all correspondence on this subject should be addressed to that Department. (G. I., H. D., No. 27 Pub.-1514, dated 7th August 1890; *vide* G. R. No. 6157, dated 30th idem.)

2. The annual reports on the working of the Merchandise Marks Act should be submitted to Government by 1st July at the latest. (G. R. No. 1027, dated 10th February 1892.)

3. The Government of Bombay should arrange to place the reports on the working of the Indian Merchandise Marks Act in possession of the Government of India by the 1st August. (G. I., F. & C., No. 269-S., dated 29th November 1892; *vide* G. R. No. 15, dated 3rd January 1893.)

4. The following executive instructions have been laid down for the guidance of Customs officers in the administration of the Merchandise Marks Act, 1889:—

1. Labels or tickets applied to boxes, cartons, parcels or other packages which are manifestly intended only for the purpose of identifying articles for the convenience of dealers and shopkeepers and are not specially intended to attract the eye of the purchaser, should not be treated as trade descriptions. *Examples*:—On bundles of hosiery, "hose, brown merino, size 10"; on shoes, "enamelled leather, men's No. 6"; on hats, brown felt, hard, No. 7."

This instruction does not apply to a mark or description on the goods themselves, nor to a description of quality, nor to a description containing the name of a place, country, manufacturer, or trader, nor to a trade mark.

2. Goods manufactured on the continent of Europe should be detained if the manufacturer's name and the trade description are expressed in English, unless the name and description are accompanied by the name of the country of manufacture.

In certain cases where the name of a place only is applied, it is not necessary to require the name of the country; for instance, if brandy is imported from Nantes or Bordeaux and marked with the name of the port of shipment only, it is not necessary to require the addition of the name of the country, because no shipper or importer of brandy from France would wilfully leave room

for doubt as to the French origin of the brandy. If bars of iron or steel of other than English origin have English words stamped thereon, the Collector should require the country of origin to be stamped on them.

3. Customs officers should detain on their own motion, and without requiring information, any goods produced or manufactured beyond the limits of the United Kingdom or of British India which are marked with British or British Indian names or trade marks, or with colourable imitations thereof, or which are so described as to indicate or suggest that the goods were produced or made in the United Kingdom or British India, unless the country of origin of the goods is indicated in conspicuous letters on the same level as that on which the names, mark, or description appear.

In the cases mentioned in this instruction a description which indicates a particular class or method of manufacture, and includes the name of a place in or a part of the United Kingdom, and is thereby likely or calculated to mislead, includes such terms as "Kidderminster carpets", "Windsor soap", "Balbriggan" on hosiery, "Shetland" on shawls, and the like; for though these terms may be held to be merely indicative of methods of manufacture, they are likely to mislead as to the place of origin.

4. Customs officers should require the indication of the country of origin to be placed on the capsules and corks as well as on the labels of bottles of wine or other liquor produced or made beyond the limits of the United Kingdom or of British India whenever such goods are—

(a) so described,

(b) or have applied to them British or British Indian names or trade-marks or colourable imitations thereof in such manner as to indicate or suggest that the wine or other liquor was produced or made in the United Kingdom or in British India.

If the description and the names are so applied as to indicate merely that the wine or other liquor has been imported by a British or British Indian trader or dealer, it is not necessary to require the indication of origin on the corks and capsules.

5. The cotton piece-goods which must have their length stamped on them, under the orders contained in the Notification of the Government of India in the Department of Finance and Commerce, No. 1430, dated the 6th April 1891, are those named below :—

Cambrics.	Domestics.
Checks, spots, & stripes.	Durias.
Chadars.	Drills.
Chadar dhutis.	Jaconets.
Dhutis.	Jeans.

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Lappets.	Printers.
Lawns.	Prints.
Lenos.	Saris.
Longcloths.	Scarves (eklai).
Madapollams.	Sheetings.
Mulls.	Shirtings.
Muslins.	Tanjibs.
Nainsooks.	Twills.
T-cloths and Mexicans.	

No other descriptions of cotton goods need be stamped with their length.

6. A report on the proceedings of the Collector should be submitted annually to the Local Government for transmission to the Government of India. The report should state the number of cases in which (1) detention was ordered; (2) detention was followed by confiscation; (3) detention was followed by release with or without a fine; (4) detention was ordered on information received; (5) detention was ordered without information. Under the first head should be specified the section of the Act under which action was taken. (G. I., F. & C., Nos. 295S., dated 28th November 1890, and 2914-S.R., dated 6th July 1896; *vide* G. Rs. Nos. 8960, dated 15th December 1890, and 5816, dated 25th July 1896.)

5. The proceedings of the Customs authorities under the Merchandise Marks Act should be regulated, like their proceedings under the Customs Act, with as much regard for the convenience of the public as is consistent with the execution of the law. (G. I., F. & C., No. 2970, dated 14th June 1889; *vide* G. R., G. D., No. 2507, dated 27th *idem*.)

6. Customs officers should so administer the Merchandise Marks Act as not to cause unnecessary harassment to trade. In cases where the law is infringed without fraudulent intent it will be expedient that until the requirements of the law are better understood, on the first infringement the goods should be passed with a warning to the importers of the requirements of the Act. (G. I., F. & C., No. 4527, dated 4th September 1889; *vide* G. R. No. 7714, dated 12th October 1889.)

7. Customs officers should refrain from applying the provisions of the Merchandise Marks Act to articles imported for private use. (G. I., F. & C., No. 10S., dated 13th January 1890; *vide* G. R. No. 649, dated 24th *idem*.)

8. In the exercise of the power conferred by Section 16 of the Indian Merchandise Marks Act, IV of 1889, and in supersession of all existing orders on the subject, the Governor General in Council is pleased to direct that Criminal Courts, in giving effect to the provisions of the Act in respect of trade descriptions of quantity, measure, or weight of the goods specified hereunder, shall observe the following instructions:—

I.—A trade description of length stamped on *grey, white, or coloured cotton piece-goods* shall not be deemed to be false in a material respect unless—

(a) where a single length is stamped, the description exceeds the actual length by more than—

4 inches in pieces stamped as 10 yards long and under ;					
5 do. do.	do. do.	as above 10 yards and up to 23 yards long ;			
7 do. do.	do. do.	do. 23 do.	do. 36 do.		
9 do. do.	do. do.	do. 36 do.	do. 47 do.		
18 do. do.	do. do.	do. 47 yards long :			

Provided that the average length of the goods in question shall not be less than the stamped length ;

(b) where a maximum and a minimum length are stamped, the described maximum length is greater than the actual length by more than—

9 inches in piece-goods under 35 yards long ;			
18 do. do.	do. do.	35 yards and up to 47 yards long.	
36 do. do.	do. do.	above 47 yards long ;	

Provided that no such piece shall measure less than the minimum stamped length.

II.—A trade description of width stamped on *grey, white, or coloured cotton piece-goods* shall not be deemed to be false in a material respect unless the description exceeds the actual width by—

half an inch in pieces stamped as 40 inches or less in width ;

three-quarters of an inch in pieces stamped as over 40 inches or under 59 inches in width ;

one inch in pieces stamped as 59 inches or more in width :

Provided that the average width of the goods in question shall not be less than the stamped width.

III.—A trade description of count or number, length or weight, applied to *grey, or bleached cotton yarn* shall not be deemed to be false in a material respect unless—

(a) the described count or number is greater or less than the actual count or number by more than 5 per cent., provided that the average count of the whole of the yarn in question is not greater or less than the described count ; or

(b) the average length of the whole number of hanks in a bundle is less than 840 yards ; or

(c) in a bundle of yarn of any count under 50, described as being 10 lb. in weight, the number of knots of twenty hanks each is not half of, the number of knots of ten hanks each is not the same as, and the number of knots of five hanks is not double, the described count or number of the yarn ; or

(d) in a bundle of yarn of any count under 50, described as being 5 lb. in weight, the number of knots of twenty hanks each is not a quarter of the described count or number of the yarn ; or

(e) in a bundle of yarn of any count from 50 upwards, the number of knots of twenty hanks each is not half, or the number of knots of forty hanks each is not a quarter, when the described weight is 10 lb. and is not a quarter or an eighth, as the case may be, when the described weight is 5 lb. of the count or number of the yarn ; or

(f) in the case of *bleached yarn* the described weight exceeds the actual weight by more than—

7½	per cent.	in counts from 1 to 8,	
5	do.	do.	from above 8 to 18,
4	do.	do.	do. 18 to 30,
2½	do.	do.	do. 30 to 80.

IV.—A trade description or count or number applied to a bundle of *dyed cotton yarn* shall be accepted as indicating length only, the hank being taken to measure 840 yards, and it shall be deemed to be false in a material respect if the average length of the hanks in a bundle is less than 819 yards.

V.—A trade description of length applied to *thread of any kind* (of cotton, wool, flax, or silk) shall not be deemed to be false in a material respect unless it exceeds the actual length by more than 1 per cent.

VI.—The dimensions of goods on which their length or width is stamped shall be determined by measurement in imperial yards of 36 inches.

(G. I., F. & C., Notn. No. 1474, dated 13th November 1891, republished at pages 926 and 927 of the *B. G. G.* dated 19th idem ; *vide* also G. R. No. 8391 dated 5th December 1891.)

9. In the exercise of the powers conferred by Section 19A, Sub-section (2) of the Sea Customs Act, 1878 (as amended by Section 11 of the Indian Merchandise Marks Act, 1889) and Sections 19 and 20 of the Indian Merchandise Marks Act, 1889 (as amended by Act IX of 1891), the Governor General in Council is pleased to make the subjoined rules and orders :

1. Piece goods, such as are ordinarily sold by length or by the piece, shall be deemed to include woollen goods of all kinds and the undermentioned descriptions of cotton goods, namely :

Cambrics.	Longcloths.
Checks, Spots, and Stripes.	Madapollams.
Chudders.	Mulls.
Chudder Dhooties.	Muslins.
Dhooties.	Nainsooks.
Domestics.	Printers.
Doorias.	Prints.
Drills.	Sarries.
Jaconets.	Scarves (Eklai).
Jeans.	Sheetings.
Lappets.	Shirtings.
Lawns.	Tanjibs.
Lenos.	Twills.

T Cloths and Mexicans.

2. Other classes of piece goods shall not be detained if unstamped; and unstamped cotton and woollen piece goods imported for private and personal use and not intended for sale shall not be detained if the Customs Collector is satisfied that they are actually not intended for sale.

3. Examinations of packages to ascertain whether the goods mentioned in rule 1 are stamped shall be made at frequent intervals at the discretion of the Customs Collector and either under his personal instructions or under general orders and instructions given by him to an Assistant Collector.

4. The piece goods contained in the packages so examined need not be examined, when found to be stamped, to test the accuracy of the stamping, except on information received, or when the Customs Collector has reason to suspect that the stamping is false.

5. All measurements of piece goods shall be made on the table.

6. Yarns need not be examined or measured except on information received, or when the Collector has reason to suspect that the trade-description is false.

7. An examination of yarns to test the accuracy of the description of count or length shall be made, in the first instance, up to the limit of one bundle in the consignment.

8. If on such examination the difference between the average count or length and the described count or length is in excess of the variations permitted in paragraphs III and IV of the Notification* in the Home Department No. 1738 (Judicial), dated the 4th December 1890, the importer may require a further examination to be made up to the limit stated in rule 9.

9. The test to determine count and length of yarns shall be applied as follows:—

One bundle should be taken from any bale in the consignment, and each knot in the bundle weighed. From the knots so weighed should be selected the heaviest knot, the lightest knot and the knot which approaches most closely to the standard weight of a knot of yarn of the particular count under examination.

[By standard weight is meant the weight which the knot of yarn of the described count should be, if the length of the hank is correct, *e. g.*, a knot of No. 20 of ten hanks to the knot should weigh eight ounces.]

The heaviest knot should then be selected from the knots so weighed, and each hank in it weighed, the heaviest and lightest hank and also the hank which approximates most closely to the standard

* Superseded by G. of I. Notn. No. 1474, dated 13th November 1891.

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weight being selected. This process should be repeated with the other two weighed knots.

There will then be nine hanks to be dealt with, three from each of the three knots weighed.

These nine hanks should then be tested on the wrap-reel. If on such test the difference between the average count or length and the described count or length is in excess of the variations permitted by the Notification quoted in the preceding rule, the process may be repeated, if the importer should require it, up to the limit of one per cent. of the whole number of bundles in the consignment; but no more extended examination shall be made unless the importer agrees to pay the cost thereof, in which case an examination may be made up to the limit of ten per cent. of the bundles in the consignment.

10. The Customs Collector may require from any informant a security not exceeding five hundred rupees. If the Collector should be satisfied that the information given is wilfully false, the security shall be forfeited.

(G. I., F. & C., Notn. No. 1430, dated 6th April 1891, republished at page 329 of the *B. G. G.* dated 16th idem; *vide* also G. R. No. 2821, dated 24th idem.)

Note.—No alteration in the wording of rule 1 is necessary. Section 10 (2) (f) of the Act requires that only 'Piece goods' shall be stamped, and the rule merely defines under Section 19 (Section 4 of Act IX of 1891) the classes of goods included in the expression 'Piece goods.' The phrase 'Woollen goods,' therefore, can include none but 'Woollen piece goods.' (G. I., F. & C., No. 285 C., dated 19th December 1891; *vide* G. R. No. 337 dated 16th January 1892.)

10. The strict requirements of clause (e) of Section 10 of the Merchandise Marks Act may be so far relaxed as to require one conspicuous indication of origin for more than one application of the name, provided the names were all on the same surface. One indication seems enough: the additional ones are surplusage. (G. R., G. D., No. 2547, dated 29th June 1889.)

11. Section 10 (e) of the Indian Merchandise Marks Act, IV of 1889, is borrowed from the English Act (*viz.*, Section 16, Sub-section 1 of the Statute 50 and 51 Vict., cap. 28) and was enacted with the object of protecting legitimate British trade from illegitimate foreign competition. In order to secure this protection it was necessary that British merchants should themselves follow the rules which were designed to prevent fraud on the part of their foreign competitors. Importers of foreign goods may be warned of the provisions of the law which require that the country of origin should be clearly indicated in the case of goods of foreign manufacture brought into British India. (G. I., H. D., No. 1545, dated 29th August 1889; *vide* G. R. No. 7150, dated 21st September 1889.)

12. The provisions of the Indian Penal Code, as amended by the Indian Merchandise Marks Act,

would render punishable any person using a false trade mark or property mark in respect of any goods. Prosecutions for imitating private trade marks should ordinarily be private prosecutions and not public prosecutions. (Solicitor to Government No. 1009, dated 5th October 1889; *vide* G. R. No. 8011, dated 22nd *idem*.)

13. The employment of the Solicitor to Government to prosecute in test cases of importance to the public under the Merchandise Marks Act is sanctioned. The cases should be selected by the Collector of Customs, who is authorized to use his discretion in instructing the Solicitor to Government to prosecute, and the result of such prosecutions should be reported by him. (G. R. No. 7387, dated 27th October 1891.)

14. The importation of labels cannot be prohibited by applying the provisions of Section 10 (1) (e) of the Indian Merchandise Marks Act. (G. Rs. Nos. 8011, dated 22nd October 1889, and 3401, dated 16th May 1890.)

15. Shawls are not 'Piece goods,' and it is not therefore necessary to require that their length should be stamped on them. (G. I., F. & C., No. 297 S., dated 19th December 1891; *vide* G. R. No. 337, dated 16th January 1892.)

16. To give a true description or classification of goods of a continental manufacture in the English language without at the same time stating the country in which they were manufactured, is misleading the public in a most material respect, namely, the place where the goods were made or produced, and as such it would not be permissible, and the person giving such a description would be applying a false description, and would, as such, be liable to the penalties under Section 6 of the Act.

It appears to be equally misleading the public if the name of the continental manufacturer were given in English without indicating where the goods were manufactured. The use of the English language in the description of goods is, *prima facie*, an indication that the goods are manufactured in the United Kingdom, and are not of continental origin.

Or, to put it in another form, as stated in Payn's work on the Merchant Marks Act of 1887 (50 and 51 Vict., cap. 28) in page 17: "The use of the English language in descriptive expressions such as 'super-fine make' on a label applied to goods coming from a foreign speaking country is undoubtedly under the Act a false indication of manufacture in the United Kingdom," &c., &c.

Similarly, any words which might imply manufacture by English firms would bring any goods so labelled within the section, if the goods came from foreign speaking countries, and would also require a definite indication of manufacture abroad. (Adv.

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Gen., Bengal, dated 21st November 1889; *vide* G. R. No. 243, dated 11th January 1890.)

17. The Government of Bombay referred, for the orders of the Government of India, a question raised by the Commissioner in Sind in connection with the mention of the country of origin of the goods. Four cases were referred to—

- (1) relating to two consignments of glass beads from Trieste, in which the goods were described as 'made in Bohemia.' The importers were warned, but the goods were allowed to pass, as Bohemia was considered a sufficient indication of the country of origin;
- (2) a consignment of German brandy, in which Hamburg was mentioned, but not specifically stated as being the place of origin of the goods. The importer was fined Rs. 10, and the goods were allowed to pass after the bottles had been labelled with the name of the place of origin;
- (3) a consignment of French brandy similarly labelled with the word Bordeaux. The importers were fined Rs. 5 and permitted to remove the goods after due stamping;
- (4) a consignment of petroleum from Batoum, marked 'Batoum.' This was deemed a sufficient indication of the country of origin, and the goods were passed with a warning to the importers.

In the first of these cases the detention and warning were unnecessary, the mention of Bohemia, or of Hungary, being a full compliance with the requirement of the law that the country of origin should be stated. In the other three cases the law was not complied with, but the manner in which such cases are dealt with must depend upon the circumstances of each case. No fine need be inflicted, nor is it necessary to insist on the specification of the country, where brandy marked as from Bordeaux comes from Bordeaux or some other French port, and there is no reason to suppose that it is other than French brandy, for no importer of French brandy would deliberately leave room for doubt whether or not his brandy was really French.

In the case of Russian oil the law should be enforced by requiring the specification of the country, and in the case of liquors from Hamburg also the law should be strictly enforced. If bars of iron or steel have English words stamped thereon, and they are not of English origin, the Collector should require the country of origin to be stamped on them. (G. I., F. & C., No. 269 S., dated 29th November 1892; *vide* G. R. No. 15, dated 3rd January 1893.)

II.—TRADE STATISTICS.

A.—EXTERNAL LAND TRADE.

1. The Secretary of State for India is anxious that the particulars of all imposts to which traders

are liable after they leave or before they enter British territory, whether authorized by the Frontier State or illegally levied by its officials, should as far as possible be ascertained and the results of the enquiries made inserted in the reports on external trade. Obviously a knowledge of the incidence of such duties will in many cases largely tend to explain the preference given to some routes over others and the relative expansion or depression of trade in particular articles. These enquiries, however, cannot be confided to men of the class of the registering clerks, but must be specially entrusted to district officers, who should be recommended to obtain the information required by judicious and discreet personal communication with the traders. (G. I., R. A. & C., No. 2-358-364, dated 14th June 1876; *vide* G. R. No. 3824, dated 3rd July 1876.)

2. The Governor General in Council desires to impress upon the Local Governments concerned the importance of issuing the annual reports and returns of the trade by land with countries external to British India and of the internal trade by land with great punctuality. The reports on the trade with countries beyond the frontier especially are required promptly to admit of their being noticed in the general review of this trade for the whole of British India as soon as the consolidated accounts of the year are published. It appears advisable in regard to the reports for Sind and Bengal, that the portion relating to the external trade should be separated from that appertaining to the internal trade, and be transmitted in advance of the latter.

The attention of Local Governments is also requested to the desirability of the monthly returns of the land trade being furnished within one month, if possible, of the period to which they relate.

Lastly the Governor General in Council desires to point out to Local Governments the necessity for greater care in the preparation of the monthly and annual returns of the land trade. At present a great many errors are found in these returns due primarily to carelessness on the part of the mohurrirs or registering officers at the outposts. Items are posted against the wrong head or are omitted altogether, and quantities and values are sometimes given which are manifestly quite wrong. Many of these mistakes admit of detection at the central compiling office, where the returns should be carefully checked and scrutinised and discrepancies enquired into without delay, but sometimes not only are the errors of the registering officers overlooked, but additional mistakes are made in the central office in posting, totalling and fair copying returns.

Great inconvenience has resulted from the delay which often occurs in notifying corrections which are to be made in the monthly returns after they have been transmitted to the Finance and Commerce Department of the Government of India. If the returns are carefully prepared, and promptly checked, there is no reason why all errors should not be

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detected and notified within two or at the most three months after the month to which the statistics relate, and it is particularly requested that all statements of corrections may be forwarded within the time specified. (G. I., F. & C., Nos. 2442, dated 24th August 1881, and 52 S., dated 5th February 1885; *vide* G. R. Nos. 5226, dated 9th September 1881, and 1602, dated 24th February 1885.)

3. The Collector of Customs, Karáchi, should prepare the annual Sind land trade report and statements as early as possible after the close of the year and take particular care to have all errors in the monthly returns adjusted before the figures are entered in the report and tables for the year. He should also omit fractions of maunds and of rupees in both the monthly and yearly returns. (G. I., F. & C., No. 1054, dated 13th June 1881; *vide* G. R. No. 3672, dated 25th idem.)

4. Statements of errors discovered in the monthly accounts of the trade of the Province of Sind sent to the Government of India should be regularly furnished with the returns of the next following month. If in any month there are no statements of errata to be furnished, the facts should be stated on a slip accompanying the returns. This is the course followed with the accounts of sea-borne trade and navigation, and it is essential to secure freedom from discrepancies between the annual accounts compiled by the Government of India from the monthly returns furnished by the local authorities and the annual accounts compiled locally. (G. I., F. & C., No. 200 C., dated 31st July 1880; *vide* G. R. No. 4835, dated 13th September 1880.)

5. In the annual land trade returns for Sind the grand total value of the trade with each country should always be entered. (G. I., F. & C., No. 69 C., dated 3rd March 1880; *vide* G. R. No. 1528, dated 23rd idem.)

B.—RAIL-BORNE TRADE.

1. The registration of railway-borne traffic is a subject of Imperial importance, and it is desirable to place it on a more uniform basis in the different provinces than has hitherto been possible. Such registration, it is generally recognized, should indicate (1) the character of the goods in which the traffic consists; and (2) the tracts or places between which the traffic is carried on. To this end the returns have to exhibit a dual classification, and with the view of simplifying these complicated details the plan known as the "block system" has been naturally adopted in some form or other in most provinces. Under this system a province is divided into "internal blocks," each block containing a group of railway stations and embracing a certain geographical area. Each of the other outlying provinces is regarded as an "external block;" and the registration returns are so framed as to exhibit for the province (1) the traffic between each of its internal blocks and all the external blocks sepa-

rately; (2) the traffic between each internal and all the other internal blocks separately. The local traffic running between two stations of the same internal block is of course omitted.

The demarcation of the internal blocks has not, however, been always made on a uniform system by the several Local Governments. In Bengal and the Punjab different lines of railway were kept separate, each line being sub-divided into strips or "blocks" of approximately equal length, so that no block contained a portion of more than one line. In the North-Western Provinces and Oudh block limits were made to coincide with geographical or administrative boundaries, and they thus include portions of all traffic (railway) lines passing through them. The latter system seems, on the whole, to be the preferable one, as it more readily lends itself to any extensions of the railway system which may from time to time be made; it also gives a better idea of the trade between particular tracts which is the chief object of these returns. It has recently been adopted by the Governments of Bombay and Bengal and by the Administration of the Central Provinces.

When the figures are being compiled, the imports and exports should be tabulated on separate sheets, to avoid errors of compilation. The compilation being done, the imports and exports can be readily brought together on the same sheet. (G. I., R. & A., No. 12 Stats., dated 28th January 1884; *vide* G. R. No. 1968, dated 4th March 1884.)

2. In the case of a marked increase or decrease during the quarter in the rail-borne traffic returns of important commodities, such as cotton or wheat, the cause if known should be briefly stated. (G. I., R. & A., No. 270-4-7 Stats., dated 27th November 1884; *vide* G. R. No. 1400, dated 17th February 1885.)

3. The trade of Karáchi should be shown separately in the rail-borne trade returns of Sind. (G. R. No. 4919, dated 16th June 1885.)

4. The returns of rail-borne trade, especially the quarterly returns, may be of much use to the commercial public, and their utility is proportionate to the promptitude with which they are issued. Every effort should therefore be made to secure their early issue by dispensing with elaborate reviews. While asking, however, that the reviews should be brief, the Government of India does not wish it to be understood that any marked fluctuations of traffic should be overlooked, or that the large increase or decrease in the carriage of any particular article of trade should pass without notice. (G. I., R. & A., No. 236-12-7 Stats., dated 13th June 1885; *vide* G. R. No. 5398, dated 3rd July 1885.)

5. The annual returns and reports both of the rail-borne and land-borne trade may be submitted through the Director of Agriculture to enable that officer to offer his comments thereon, but care should be taken that the adoption of this procedure does

not involve any undue delay in their publication, as the Government of India lay great stress on the necessity of issuing such returns promptly. (G. R. No. 2220, dated 16th March 1885.)

6. The report of the rail and river-borne trade of Sind should be reviewed by the Director of Land Records and Agriculture, Bombay. (G. R. No. 6280, dated 26th August 1889.)

7. Booking with stations beyond Jacobabad on the Sind-Pishin Railway should be excluded from the returns of rail-borne trade. (G. L., R. & A., Nos. 259-2-11, dated 15th August 1887, and 323, dated 1st December 1887; *vide* G. R. No. 6414, dated 23rd September 1887.)

8. In their circular of the 21st December 1887 the Government of India laid before Local Governments and Administrations a proposed scheme in modification of the arrangements then existing for collecting and tabulating the rail-borne trade statistics of British India. In the replies furnished to that circular, all the Local Governments and Administrations agreed to the proposed scheme as a whole.

2. The scheme came into operation on the 1st April 1888.

3. Registration continues to be concentrated as before, excepting that in order to avoid delays resulting from the late receipt of invoices which pass over several lines, the Audit Office at Jamalpore registers, as far as is possible and expedient, all imports into Northern India from Southern India, and up to the 30th September 1896 the Examiner of Guaranteed Railway Accounts, Bombay, registered all imports into Southern India from Northern India. Imports into Northern India from Southern India not registered at Jamalpore are registered at Lahore, Lucknow and Gorakhpore. The system of registering the trade of the provinces of Southern India with one another and of the provinces of Northern India with one another is maintained to a great extent. With this view the lists* A and B have been prepared, showing A by what Audit offices the rail-borne trade of each province with external blocks will be registered, and B the returns to be supplied by each registering office and the offices to which they will be furnished. The adoption of these lists will prevent the possibility of any discrepancy in weights between one provincial return and another.

4. Under the scheme sanctioned in the letter from the Government of India, No. 2321 Ex., dated 28th May 1896 (see Government Resolutions Nos. 4780, dated 18th June 1896, and 8833, dated 9th November 1896) the work of registration of rail-borne trade which before the 1st October 1896 was performed by the Examiner of Guaranteed Railway Accounts, Bombay, has from that date been entrusted to the Auditors of the Railway

* Not printed. For revised lists *vide* Government Resolution No. 6182, dated 19th August 1897.

Companies, who render their registration returns to the Examiner, under whose supervision the statistics are compiled and submitted to the Local Governments and Administrations concerned. The under-mentioned fees are paid monthly to Railway Companies for performing the work of registration :—

	Ra.	
G. I. P. Railway Company.	300	} Chargeable to the Government of Bombay.
S. M. Railway „ ...	60	
B. B. & C. I. Railway „ ...	300	} Do. do. India.
Nizám's Guaranteed Rail- way ...	50	
Madras Railway ...	250	} Do. do. Madras.
South Indian Railway ...	200	
Total ...	1,160	

5. Provision has been made in Appendices* A and B for the registration of the traffic between the Bombay, Baroda and Central India Railway and the Oudh and Rohilkhand Railway which goes *vid* Cawnpore and does not come on to the East India Railway.

6. The adoption of the modified system now contemplated of collecting the rail-borne statistics of India will in no way affect the registration of the internal trade of a province (*i.e.*, the trade within a province), the arrangements for which the Government of India is willing to leave to Local Governments and Administrations. No alterations should be made, however, in the present number of internal blocks (*i.e.*, blocks within a province) without intimation being given to the Government of India.

7. The limits of the railway lines comprised in each external block are given in list* C. In order to trace the sea imports to their place of consumption and the sea exports from their place of production, and to enable the Government of India to compile imperial returns in the manner required by the Secretary of State, the sea-port towns of Bombay, Karachi and Calcutta should be treated as separate blocks, both by the Governments of the provinces in which the towns are respectively situated and by other Provincial Governments. Similarly the sea-port towns of Madras, which are touched by railways, *viz.*, Madras, Pondicherry, Negapatam, Tuticorin and Calicut,† will be regarded as separate blocks for the purposes of the Madras Government, but as a single block, *viz.*, “Madras sea-ports,” for the purposes of other Administrations and for the purposes of the Imperial returns. The object of amalgamating the figures of these five sea-ports is to ascertain the share of the Madras Presidency in the foreign ex-

* Not printed. For revised list C see G. Rs. Nos. 1900, dated 10th March 1897, and 7147, dated 23th September 1897.

† *Note.*—Vizagapatam, Coconada and Cuddalore have since been added to these.

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port and import trade. This object is not attained as regards this Presidency by making the Madras town only a separate block, as the great bulk of the trade of the Presidency by sea does not proceed from the capital as in the case of Bengal, Bombay, and Sind, but from its subordinate ports.

8. Should it be necessary to make any additions or alterations in lists* A, B and C in consequence of the opening out of new lines or railways, they should be reported to the Government of India,† by whom intimation will be given to other Local Governments and Administrations.

9. The articles of which the trade is registered are those specified in list‡ D appended. Experience has shown that it is necessary to lay down one uniform list of commodities for all India, and it is desired that this list should be adopted *both for the quarterly and for the annual returns*. If Local Governments wish to ascertain the trade in specific commodities not entered in the classified list, the registering offices concerned may be requested to register it, but the commodity should not be separately entered in the prescribed returns. It is also desired that no alteration should be made in the order of commodities.

10. List‡ E gives the deduction rates per cent. which should be applied to the commodities entered in list‡ D, so as to arrive at actual weights. These rates should not be altered without the sanction of the Government of India. This list should accompany the Provincial returns, quarterly and annually.

Audit offices to be supplied with lists A to E. Lists A to E should be supplied to all registering offices for information and guidance.

* * * * *

14. The forms of the Provincial returns, quarterly and annual, at present in use are those noted below :—

I.—Statement showing for two years the trade between a province as a whole and other provinces and Native States.

II.—Statement showing the trade between the internal blocks, if any, of a province and other provinces and Native States.

III.—Statement showing the trade between the internal blocks, if any, of a province.

* Not printed. For revised list C see G. Rs. Nos. 1900, dated 10th March 1897, and 7147, dated 28th September 1897.

† The Government of India have directed in their Resolution in the Revenue and Agricultural Department, No. 15-52-6, dated 23rd May 1895, that the statements of additions to the open mileage of railways should be forwarded to the Director General of Statistics.

‡ Not printed.

15. The forms of Statements II and III do not require alteration except that, in the case of the Madras Presidency, it has been arranged that the five sea-port towns of which the rail-borne trade is returned, shall follow each other consecutively instead of being separated as in the present form.

16. Statement I should be modified so as to exhibit the imports from and exports to external blocks, and in the case of the maritime provinces (Madras, Bombay, Sind and Bengal) also the trade between a province and its chief town. Comparative figures for two years as at present given in the Provincial returns are not required for the Imperial returns.

17. Subjoined as an illustration is the form in which it is intended that the statement for the Madras Presidency should be filled in :—

Articles, and whence imported or whither exported.	IMPORTS INTO				EXPORTS FROM			
	Madras.		Madras Sea-ports.		Madras.		Madras Sea-ports.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
COAL.	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.
<i>British Provinces (excluding chief Sea-port towns).</i>								
Madras	†	†	•	•	†	†	•	•
Bombay, &c., &c.								
<i>Native States</i>								
Rájputána and Central India, &c.								
<i>Chief Sea-port towns.</i>								
Madras Sea-ports, &c. ...	•	•	†	†	•	•	†	†
Total								

† These will be blank.

‡ These should also be filled in so as to show the trade between the Presidency and its sea-ports.

This form, which has been devised so as to facilitate and expedite the compilation of the Imperial return, gives, in the case of maritime provinces, (1) the *total* trade of a province excluding its chief sea-port town (sea-ports in the case of Madras) with external blocks, (2) the trade of the chief sea-port town with external blocks, and (3) the trade between a province and its chief sea-port town. At present (1) is not totalled in any Statement and (3) finds place in Statement III. The trade of the five sea-ports of the Madras Presidency with one another will, of course, not be included in this return.

Statement III will continue to show as part of the internal trade of a province the trade of the chief sea-port town with the other internal blocks.

18. External blocks should invariably be entered in the following order in Returns I and II, and in those prepared by Railway Audit Offices :—

Order of external blocks.

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British Provinces (excluding chief sea-port towns).

Madras.
Bombay.
Sind.
Bengal.
North-Western Provinces and Oudh.
Punjab.
Central Provinces.
Berár.
Assam.*

Native States.

Rájputána and Central India.
Nizám's Territory (Hyderabad).
Mysore.

Chief Sea-port Towns.

† i.e. Madras, Pondi- cherry, Negapatam, Tutu- corin and Calicut.‡	Madras † sea-ports. Bombay. Karáchi. Calcutta.
--	---

It is important that this order should be observed to prevent the risk of errors in filling in or extracting the figures.

* * * *

20. The returns will continue to be prepared according to the official year ending on the 31st March and should be accompanied by a review of the figured statements. Repetition of figures should be avoided as much as possible in the review, which in addition to the following points, should chiefly notice the more important fluctuations in the trade:—

I.—Quarterly Returns—

Alterations in railway freights which may have taken place during the period under notice.

II.—Annual Returns—

- (a) Changes, if any, in registration arrangements.
- (b) Brief notice of seasons.
- (c) Prices.
- (d) Changes, if any, in railway freights.

21. Under existing orders, the quarterly and annual returns are distributed and briefly reviewed by the Department of Land Records and Agriculture or by such other authority as may be responsible for them. In future the annual report on internal trade should be dealt with in the same manner as reports on sea-borne trade, and no further review will be required from Local Governments and Administrations.

* Vide G. I., R. & A, No. 10-10, dated 13th May 1895; vide G. R. No. 4169, dated 4th June 1895.

† Note.—To these have since been added Vizagapatam, Cocosnada and Cuddalore.

22. In order to secure the early publication of the returns and reviews, the officers charged with the compilation of the returns should circulate them direct to the public and to the various Governments as soon as they are printed. It is not necessary to publish the returns and reviews in the local Gazettes. It is desirable that copies of the returns and reviews should be interchanged between Local Governments and Administrations, also between the offices charged with their compilation. The following number of copies should be forwarded to the Government of India :—

	No. of copies.
Department of Public Works ...	1
Department of Finance and Commerce ...	3
Department of Revenue and Agriculture*	4

Copies should also be forwarded to the Assistant Auditor, East Indian Railway, Jamalpore, and to the registering authorities of other railways.

23. The returns and reviews should reach the Government of India on the following dates :—

1st quarter ending 30th June ...	1st October.
2nd do. 30th September...	1st January.
3rd do. 31st December ...	1st April.
4th do. 31st March ...	1st July.
Annual ...	1st October.

The Government of India trusts that Local Governments and Administrations will do their utmost to see that these dates are strictly observed, so that the statistics may be of immediate and practical interest to the public and to Government. In order to expedite the compilation and publication of the Imperial returns, the Government of India should be furnished in advance of these dates with a manuscript or proof copy of Statement No. 1 only of the Provincial returns (quarterly and annual), the complete statements in print being forwarded subsequently.

24. It has been ascertained that the registering offices are required to fill in different forms for the various provinces, and that this want of uniformity gives considerable trouble, and delays the tabulation of the returns. It is desired, therefore, that the following forms should be adopted :—

I.—For imports, the form† F appended. Headings have, as an illustration, been filled in for the Bombay Presidency.

* In their Resolution No. 15-52-6, dated 23rd May 1895, the Government of India in the Revenue and Agricultural Department have directed that the annual and quarterly returns of inland trade should be forwarded in future to the Director General of Statistics; and the Director General has requested in his letter No. 27-S.R., dated 18th May 1896 (G. R. No. 4482, dated 6th June 1896) that six copies of each of the quarterly and annual returns of Rail-borne trade should be sent to his office at Calcutta in addition to the copy sent in advance.

† Not printed.

II. A similar form for exports.

III. A similar form showing the trade between internal blocks.

Each of these forms should be in book-form, and the order of commodities and of provinces should be uniform. No alterations should be made in these forms without the sanction of the Government of India. Any alterations made in approved forms will be notified to all the registering offices in order to uniformity being observed in all returns issued to the various Local Governments. For the same reason, if Audit offices wish to make any changes or suggestions, they should address the Government of India through the Local Governments and Administrations concerned, or the Government of India direct if the proposal applies generally to all provinces. (G. L., R. & A., Nos. 37 St.-35-21, dated 23rd March 1888, and 1-9-1, dated 7th January 1889; *vide* G.R. No. 2036, dated 29th March 1888, and G. M. No. 1161, dated 12th February 1889.)

List D referred to above.

List of Commodities to be shown in the Quarterly and Annual Rail-borne Trade Returns.

Articles.

Coal and Coke.

Cotton, raw.

„ Manufactured—

- (1) Twist and yarn, European.
- (2) Ditto Indian.
- (3) Piece-goods, European.
- (4) Ditto Indian.

Drugs and Chemicals—

- (1) Intoxicating, other than opium.
- (2) Non-intoxicating—
 - (a) Cinchona bark.
 - (b) Others.

Dyes and Tans—

- (1) Indigo.
- (2) Myrabolams.
- (3) Cutch.
- (4) Turmeric.
- (5) *Alizarine and aniline dyes.
- (6) Others.

Grain and Pulse—

- (1) Wheat.
- (2) Rice in the husk.
- (3) Do. not in the husk.
- (4) Jowár and bájra.
- (5) Gram and pulse.
- (6) Others.

Hides and Skins—

- (1) Hides of cattle—
 - (a) Dressed or tanned.
 - (b) Raw.
- (2) Skins of sheep, &c.—
 - (a) Dressed or tanned.
 - (b) Raw.

* The value-rates may be taken either for alizarine alone or for alizarine and aniline each separately. (Letter from Director General of Statistics, No. 24-S. E., dated 15th May 1896; *vide* G. R. No. 4497, dated 8th June 1896.)

Articles.

Horns.

* Hemp and other fibres.

† Jute—

- (1) Raw.
- (2) Gunny bags and cloth.

Lac—

- (1) Stick.
- (2) Shell.

Leather, manufactured.

Liquors—

- (1) Beer.
- (2) Spirits.
- (3) Wine.

Metals—

- (1) Copper, unwrought.
- (2) Brass ”
- (3) Copper, wrought.
- (4) Brass ”
- ‡ (5) Iron and Steel—
 - (a) Cast.
 - (b) Unwrought.
 - (c) Wrought.
 - (d) Manufactures of iron and steel
- § (6) Others.

Oils—

- (1) Kerosine.
- (2) Castor.
- (3) Cocoanuts.
- (4) Others.

Oilseeds—

- (1) Linseed.
- (2) Rape and mustard.
- (3) Til or jinjili.
- (4) Poppy.
- (5) Earthnuts.
- (6) Castor.
- (7) Others.

Opium.

Paper and paste-board.

Provisions—

- (1) Ghi.
- (2) Dried fruits and nuts.
- (3) Others.

|| Railway Plant and Rolling Stock—

- (1) Locomotives, engines and tenders and parts thereof.
- (2) Carriages and trucks and parts thereof.
- (3) Materials—
 - (a) Steel rails and fish-plates.
 - (b) Sleepers and keys of steel and cast iron.
 - (c) Other sorts.

* Letter from Director General of Statistics No. 20-S. R., dated 4th May 1896; *vide* G. R. No. 4196, dated 27th idem.

† Under this heading should be included only *Corchorus capsularis* or *C. olitorius*; G. I., R. & A., No. 2-10-1, dated 7th January 1889.

‡ Such articles as frames for railway carriages, bolts (railway), rails and engines are not to be included under any of the sub-heads of this head, but under 'Railway Plant and Rolling Stock.' It may be said generally that all articles of iron and steel which are used as railway plant and rolling-stock should be so classified. (Letter from Director General of Statistics No. 52-S. R., dated 22nd August 1896; *vide* G. R. No. 7252, dated 14th September 1896.)

§ To include tin; G. I., R. & A., No. 40-8-8, dated 22nd July 1887; *vide* G. R. No. 5218, dated 9th August 1887.

|| G. I., R. & A., No. 53-94, dated 9th September 1893; *vide* G. R. No. 7165, dated 2nd October 1893.

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Articles.

Salt—

Saltpetre, &c.—

- (1) Saltpetre.
- (2) Other saline substances

Silk, raw—

- (1) Foreign.
- (2) Indian.

Silk Piece-goods—

- (1) Foreign.
- (2) Indian.

Spices—

- (1) Betelnuts.
- (2) Pepper.
- (3) Ginger.
- (4) Chillies.
- (5) Cardamoms.
- (6) Others.

Stone and Lime.

Sugar—

- (1) Refined.
- (2) Unrefined.

Tea—

- (1) Foreign.
- (2) Indian.

Tobacco—

- (1) Unmanufactured.
- (2) Manufactured—
 - (a) Cigars.
 - (b) Other sorts.

*Wool—

- (a) Raw.
- (b) Manufactured—
 - (1) Carpets and rugs.
 - (2) Piece-goods, European.
 - (3) Do. Indian.
 - (4) Other sorts of manufactures

All other Articles of Merchandise.

Provincial Total Goods.

† Treasure—

- | | | | |
|--|-----|-----|----|
| (1) Gold coin and bullion | ... | ... | Oz |
| (2) Silver coin (Government Rupees) | ... | | ” |
| (3) Silver bullion (namely, bars, ingots
and coin not being current coin of
the Government of India) | ... | ... | ” |

Animals—

- (1) Horned Cattle.
 - (2) Sheep and goats.
 - (3) Horses, ponies and mules.
 - (4) Other kinds.
- Provincial Total Animals.

* Letter from the Director General of Statistics, No. 104-S.-R., dated 6th August 1897; vide G. R. No. 6687, dated 7th September 1897.

† The weight should be recorded in Troy ounces, the conversion of tolas being made at the rate of one tola to three-eighths of an ounce. Both Government and private treasure should be included in the returns. Copper should not be included in the returns of treasure, which includes only gold and silver. (Letter from the Director General of Statistics, No. 41, dated 19th February 1896; vide G. R. No. 2231, dated 11th March 1896.)

List E referred to above.

*Deduction Rates per cent. assigned to articles entered
in the Rail-borne Traffic Returns.*

Articles.	Rates of deduction per cent.
Coal and coke	<i>Nil.</i>
Cotton, Raw	3·0*
„ Manufactured—	
(1) Twist and yarn, European	5·5
(2) Ditto Indian	4·0
(3) Piece-goods, European—	
(a) in bales and bundles†	3·5
(b) in boxes†	18·0
(4) Piece-goods, Indian—	
(a) in bales and bundles†	3·5
(b) in boxes†	15·0
Drugs and Chemicals—	
(1) Intoxicating other than opium	5·0
(2) Non-intoxicating—	
(a) Cinchona bark	5·0
(b) Others	4·0
Dyes and Tans—	
(1) Indigo	18·0
(2) Myrabolams	1·2
(3) Cutch	2·0
(4) Turmeric	1·0
(5) † Alizarine and aniline dyes... ..	25·0
(6) Others	2·0
Grain and Pulse—	
(1) Wheat	} 1·0
(2) Rice in the husk	
(3) Rice not in the husk	
(4) Jowár and bájra	
(5) Gram and pulse	
(6) Others	
Hides and Skins—	
(1) Hides of Cattle—	
(a) dressed or tanned	2·5
(b) raw	<i>Nil.</i>
(2) Skins of Sheep, &c.—	
(a) dressed or tanned	2·5
(b) raw	<i>Nil.</i>
Horns	1·0
§Hemp and other fibres	<i>Nil.</i>
Jute—	
(1) Raw	<i>Nil.</i>
(2) Gunny bags and cloth	<i>Nil.</i>
Lac—	
(1) Stick	2·0
(2) Shell-lac	19·0
Leather, manufactured	14·5
Liquors—	
(1) Beer... ..	} 20·0
(2) Wines	
(3) Spirits	

* Reduced from 5 to 3 by G. I., R. & A., No. 83-11-58, dated 18th November 1889; vide G. R. No. 9290, dated 9th December 1889.

† These distinctions are merely made to facilitate valuation, as piece-goods packed in boxes are considerably more valuable than piece-goods sent in bales and bundles. They should be adhered to in the returns prepared in railway offices, but should not be followed in reports issued by Local Governments and Administrations, as they have served their purpose as soon as the valuation has been effected.

‡ Letter from the Director General of Statistics, No. 40-S. R., dated 13th July 1896; vide G. R. No. 5838, dated 25th idem.

§ Letter from the Director General of Statistics, No. 39-S. R., dated 13th July 1896; vide G. R. No. 5838, dated 25th idem.

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Articles.	Rates of deduction per cent.
Metals—	
(1) Copper, unwrought	1·0
(2) Brass, unwrought	
(3) Copper, wrought	
(4) Brass, wrought	
(5) Iron and Steel—	Nil.
(a) Cast	
(b) Unwrought	
(c) Wrought	
(d) Manufactures of iron and steel...	1·0
(6) Others	
Oils—	
(1) Kerosine	17·0
(2) Castor	
(3) Coconut	
(4) Others	
Oilseeds—	
(1) Linseed	1·5
(2) Rape and mustard	
(3) Til or jinjili	
(4) Poppy	
(5) Earthnuts	
(6) Castor	
(7) Others	
Opium	25·5
Paper and paste-board	20·0
Provisions—	
(1) Ghi	18·0
(2) Dried fruits and nuts	4·0
(3) Others	2·0
Railway Plant and Rolling Stock—	
(1) Locomotive engines and tenders, and parts thereof	Nil.
(2) Carriages and trucks, and parts thereof	
(3) Materials—	
(a) Steel rails and fishplates	
(b) Sleepers and keys of steel and cast iron	
(c) Other sorts	
Salt	1·0
Saltpetre—	
(1) Saltpetre	1·0
(2) Other saline substances	
Silk, Raw—	
(1) Foreign	4·5
(2) Indian	
„ Piece-goods—	
(1) Foreign	11·0
(2) Indian	
Spices—	
(1) Betelnuts	1·0
(2) Pepper	2·5
(3) Ginger	2·0
(4) Chillies	2·5
(5) Cardamoms	10·0
(6) Others	2·5
Stone and lime	Nil.
Sugar—	
(1) Refined	1·0
(2) Unrefined	1·5
Tea—	
(1) Foreign	23·5
(2) Indian	

Articles.	Rates of deduction per cent.
Tobacco—	
(1) Unmanufactured	1·0
(2) Manufactured—	
(a) Cigars	55·0
(b) Other sorts	20·0
Wool, raw*	5·3
" Manufactured—	
(1) Carpets and rugs (packed in bales) ...	3·5
(2) Piece-goods, European	18·0
(3) Do. Indian	6·0
(4) Other sorts of manufactures (packed in boxes)	20·0
All other articles of merchandise... ..	2·0
Treasure—	
(1) Gold coin and bullion	} 12·0†
(2) Silver coin (Government Rupees)	
(3) Silver bullion (namely, bars, ingots and coin not being current coin of the Government of India)	
Animals—	
(1) Horned cattle	} Nil.
(2) Sheep and goats	
(3) Horses, ponies and mules	
(4) Other kinds	

9. The portion of the Nizám's State Railway which lies within the Madras Presidency has been constituted a separate internal block called the Kistna-Godaveri block, and it has been arranged by the Madras Government that the trade between the Kistna-Godaveri block (Gangineni to Bezvada) and the rest of the Nizám's State Railway included in the Hyderabad block shall be registered by the Chief Accountant and Auditor, His Highness the Nizám's Guaranteed State Railway.

The registration of traffic between the Nizám's State Railway and other railways has been duly provided for in the scheme detailed in the Appendices to the Revenue and Agricultural Department circular No. 37-35-21 (Statistics), dated 23rd March 1888, but when that scheme was drawn up, the entire length of the Nizám's State Railway lay within the Hyderabad block. It is, therefore, necessary to warn registering officers of the extension and division of the railway between the Madras and Hyderabad blocks, as explained above, in order that traffic with each of the two sections may be separately registered under the general scheme. (G. I., R. & A., No. 43-11-35, dated 1st July 1889; *vide* G. M. No. 5121, dated 18th idem.)

10. The registration of rail-borne trade between Assam and Provinces other than Bengal should be

* Letter from the Director General of Statistics No. 121-R. S., dated 23rd September 1897; *vide* G. R. No. 7710, dated 22nd October 1897.

† Twelve per cent. of the gross actual weight should be deducted as representing the weight of packing. It is understood that two weights are entered in the way-bills or luggage-receipts, (a) gross actual weight, (b) weight charged for by the Railway. The deduction should be made from the gross actual weight which is the weight to be taken for registration. (Letter from the Director General of Statistics No. 41, dated 19th February 1896; *vide* G. R. No. 2231, dated 11th March 1896.)

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compiled and returned by the Examiner of Accounts, Eastern Bengal State Railway, to the Director of Land Records, Assam, extracts from the tables being sent also to the Director of Land Records in each of the other Provinces for which there are figures in the tables. (Letters from the Director General of Statistics Nos. 46, dated 25th February 1896, and 44-S. R., dated 21st July 1896; *vide* G. Rs. Nos. 2563, dated 24th March 1896, and 6463, dated 15th August 1896.)

11. The Railway Administrations concerned should exhibit the statistics of traffic in animals in the returns of rail-borne trade.

Animals should be shown by number and value and not by weight, and under the following heads at the end of each return :—

- | | |
|----------------------|-------------------------------|
| (1) Horned cattle. | (3) Horses, ponies and mules. |
| (2) Sheep and goats. | (4) Other kinds. |

(G. I., R. & A., No. 4-27-3, dated 13th January 1890; *vide* G. R. No. 1053, dated 8th February 1890.)

12. The Local Government should, on receipt from the Government of India of the quarterly statement showing additions to open mileage of railways, &c., inform all officers registering rail-borne traffic of the changes and additions necessary in the limits of internal blocks owing to the opening of new lines. (G. I., R. & A., No. 16-27-20, dated 27th June 1890; *vide* G. R. No. 5106, dated 21st July 1890.)

13. Coal and coke intended for railway consumption should not be distinguished from those articles when used for other purposes. The statistics of the traffic in these articles should be shown under the prescribed head 'Coal-Coke'. (G. I., R. & A., No. 1783-33-14 Stats., dated 23rd July 1890; *vide* G. R. No. 8890, dated 12th December 1890.)

14. Government stores should be classed in the rail-borne trade returns according to the commodities of which they consist. Where the consignments are of a miscellaneous nature, they may be entered under the appropriate miscellaneous heading, or under "All other articles of merchandise," in the trade returns. (G. I., R. & A., No. 29-27-37 Stats., dated 13th October 1890; *vide* G. R. No. 8026, dated 12th November 1890.)

15. Details as to the commodities of which Government stores consist should be shown in the goods invoices on all the railways, the Government consigning Departments giving the requisite information in the column "Designation and Marks" of the credit notes. In the case of ordnance stores the word "Miscellaneous" should be added to the general description "Ordnance stores" in all cases in which the exact nature is not stated. (G. Rs. Nos. 8628, dated 4th December 1890, 2325, dated 3rd April 1891, and 1025, dated 10th February 1892.)

16. The following form (in which the imports into, and exports to foreign countries from the Port

of Bombay were shown in the report on the rail-borne trade of Bombay for 1889-90) or one similar to it should be adopted for the annual inland trade review in exhibiting the trade of Karáchi in articles of Provincial importance:—

Articles.	IMPORTS.				Exports by abroad.
	BY RAIL.		Coast Trade.	Total.	
	External Blocks.	Internal Blocks.			
Cotton ... { 1888-89 ... { 1889-90 ...					
Wheat ... { 1888-89 ... { 1889-90 ...					
Linseed ... { 1888-89 ... { 1889-90 ...					
Mustard and { 1888-89 ... Rape... { 1889-90 ...					
Gingelly ... { 1888-89 ... { 1889-90 ...					

(G. I., R. & A., No. 150-52-11-3 S., dated 19th January 1891; *vide* G. R. No. 1277, dated 17th February 1891.)

17. The Marmagao Castle Rock Block should be named the West India Portuguese Railway Block and it should register the traffic passing over the West India Portuguese Railway alone. (G. R. No. 1867, dated 12th March 1891.)

18. The articles included under the heading railway plant and rolling stock should be classified in the returns of inland trade as indicated below:—

- (1) Locomotives, engines and tenders, and parts thereof.
- (2) Carriages and trucks and parts thereof.
- (3) Materials—
 - (a) Steel rails and fish-plates.
 - (b) Sleepers and keys of steel and cast iron.
 - (c) Other sorts.

(G. I., R. & A., No. 55-94, dated 9th September 1893; *vide* G. R. No. 7165, dated 2nd October 1893.)

19. The values assigned in the returns are calculated by the Provincial authorities concerned from the average prices ruling at some of the chief trading centres. The system of obtaining the figures of prices seems to be somewhat different in different places. In the North-Western Provinces and Oudh, the Provincial Department of Agriculture entertains a special agency which ascertains for articles of variable value (such as raw produce) the prices ruling at the end of each fortnight. On these fortnightly returns an average is struck every quarter, and on the quarterly averages the annual average is calculated. For articles the value of which is less variable, uniform prices for the year or half-year are fixed by local enquiry. In the Punjab figures of prices are obtained, apparently every year, from Deputy Commissioners in certain trade centres, and averages are struck for the year. In

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the Bombay Presidency, for rail-borne-trade returns the prices are those of the recorded values of merchandise imported or exported by sea into or from the port of Bombay.

Though absolute uniformity in this matter may be impossible, one or two general principles can be laid down. For certain classes of goods, such as cotton manufactures or ammunition, the value assigned must be more or less arbitrary. But for the great bulk of raw products a fairly accurate standard of prices can be obtained from the rates ruling in the chief marts, and it is very desirable that these should be periodically ascertained by means of careful inquiries through a trustworthy agency. In the case of the former class of goods, the inquiry need not be so elaborate, but the values adopted in the different provinces should, as far as possible, be uniform, so as to render it possible to utilise them in instituting a comparison between the trade of one province and that of another. (G. I., R. & A., No. 12 Stats., dated 28th January 1884; *vide* G. R. No. 1968, dated 4th March 1884.)

20. The method employed in the North-Western Provinces and Oudh and the Central Provinces for assigning values to the heads "Other kinds" of articles entered in the quarterly returns of rail-borne trade is as follows:—

(1) The price of all articles coming under each head in the list is ascertained.

(2) The comparative extent of the trade carried on in each article during the period concerned is expressed in percentages, the total trade in all the articles being considered as 100.

(3) The ascertained price and percentage of each article are multiplied together and the sum of the products is divided by 100. The quotient gives the average value for the particular head.

This plan, which appears to be the most satisfactory of which the case admits, might be adopted.

It is not in itself objectionable to leave blank lines in the list after the heads "Other kinds" in order to secure greater accuracy in the values entered against these heads, but it is not desired that the number of the details given in the list of prices which is furnished to the Government of India should be increased. (G. I., R. & A. Nos. 83 Stats.-4-32, dated 19th June 1885, and 116-4-46 Stats., dated 7th September 1885; *vide* G. Rs. Nos. 5769, dated 17th July 1885, and 7683, dated 23rd September 1885.)

21. With the object of securing greater uniformity in the system of valuing the articles of rail-borne trade and of placing the whole question on a more satisfactory footing the following observations are made.

In the case of the four maritime provinces* the Governments of Madras and Bengal and the Commissioner in Sind calculate their value rates on a basis of local prices or of prices prevail-

*Madras.
Bengal.

Sind.
Bombay.

Governments of Madras and
Bengal and the Commissioner
in Sind calculate their value

ing in the chief marts. The Government of Bombay obtains its rates from the invoice-values ascertained by the Custom House. This difference of principle doubtless accounts for the large discrepancies between the rates for Bombay and those of other provinces, especially in the case of European merchandise. In order to obviate these variations, it is suggested that for *European merchandise exported Inland* the value rates should, as is done in Bombay, be obtained from the Customs Houses, for the maritime provinces are scarcely re-exporters in a real sense as regards the bulk of the consignments of foreign merchandise sent up-country. Moreover, this method of valuation is one that entails little trouble and no expense. The value rates of exports of *other articles* might be based on local prices or on the prices prevailing in the chief marts, which in the case of Bombay and Sind might apparently be obtained without difficulty by the Director of Land Records and Agriculture, Bombay, through the agency which collects the fortnightly prices of food-grains, &c., and the prices given in Form III. E.I. (prices of produce) of the returns of Agricultural Statistics. The Local Governments and Administrations of other provinces (*i.e.*, of non-maritime provinces) might continue to calculate the value of their exports on the basis of local prices.

Exporting values are referred to above, as these values only are utilized by the Government of India for the Imperial Returns.

The rates of opium are very variable owing to the monopoly rate at which Government sells the manufactured article being adopted in some provinces, while the rate paid to the cultivator for the crude product is taken in other provinces.

There are three possible prices which might be shown for opium, viz. :—

- (1) the actual cost of the article as manufactured for Government ;
- (2) the monopoly price, *i.e.*, the price at which Government sells *abkari* opium from the Treasury in different provinces ; and
- (3) the price of the chests for China.

The monopoly price varies. On the whole the Government of India is inclined to think that the actual cost of the article as manufactured for Government should be taken by all Local Governments and Administrations.

The Government of Madras has brought to notice that the valuation of the general head "Others" under the major heads noted on the margin cannot be given without considerable trouble and expense if the data are to be collected annually, as the Railway Audit Offices would have to furnish details of the trade coming under the heads "Others" in order to obtain approximate value rates in accordance with the instructions contained in the Government of India's circulars

Dyes and tans, grains,
metals, oilseeds, &c.

Nos. $\frac{88}{4-93}$ and $\frac{116}{4-96}$ (Statistics), dated 19th June and 7th September 1885, respectively. That Government proposed that a fixed value rate should be laid down for all provinces as has been done in the case of the heading "All other articles of merchandise" for which a value rate of Rs. 3-8 was fixed in the Government of India's Circular No. 360-67-9-29 (Statistics), dated 8th December 1887. In reply the Government of India suggested that the value rates of the general heads "Others" should be ascertained and adopted once for all by the Government of Madras, and it is suggested that other Local Governments and Administrations might follow this plan also.

As regards the large differences in some articles between the minimum and maximum rates, it is suggested that the causes of these variations should be ascertained by the Directors of Departments of Land Records and Agriculture (where such Departments exist) with a view to correcting the rates if necessary. It seems advisable that there should be free correspondence between the Directors of Land Records and Agriculture regarding value rates.

In order to avoid the anomaly of an importing province showing a lower rate than that of the exporting province and such other contradictions, Local Governments and Administrations should calculate the values of their imports from *British Provinces* according to the value rates of exporting provinces: this would necessitate the application of different multipliers instead of the same multiplier as at present, but would entail no extra calculation.

For the trade with Native States * for which the Residents or Agents to the Governor General do not furnish separate returns, each Local Government and Administration might, as at present, assign its own value rates.

Local Governments and Administrations should, as soon as possible after the close of the year to which the annual returns relate, interchange lists of value rates so as to prevent delay in the submission and publication of the annual returns.

Another advantage in Local Governments and Administrations applying to their imports the value rates of exporting provinces is that it would bring about a complete agreement between the Imperial and Provincial Returns. The form of the Imperial Return, as will be seen from the quarterly returns published by the Government of India, is so designed that the same figures read one way (cross-wise) mean exports, and read another way (downwards) represent imports. The exports of one province or block are thus the imports of the other provinces or blocks, and *vice versa*. The Provincial Returns combined present two sets of the same figures, of which one, *viz.* that under exports, is used for filling in the Imperial Return. In the case of the Native States, the figures under exports are also utilized, as no separate returns are furnished by these States. By this procedure the total value of the exports of each article

from each block given in the last column but one of the Imperial Return corresponds with that given in the Provincial Returns; but this is not the case as regards the horizontal totals given under each article (*i. e.* when the figures are considered as imports), as these represent the total of values as given by the exporting provinces, whereas the Provincial figures represent the total of local values. The differences in these horizontal totals are very large in some cases owing to the fact that Provincial value rates are discrepant in consequence of their being calculated on different principles and to the fact that they represent the varying rates current in different provinces. If, therefore, Local Governments and Administrations apply to their imports the value rates of exporting provinces, as is done by the Government of India, there will be a complete agreement between the Imperial and Provincial Returns. It is necessary that both these returns should agree in all columns, *i. e.* the same statistical fact should invariably be shown in the same figures simply in order to enable the Government of India and the commercial public to handle the statistical returns.

It would facilitate calculation of values in the Provincial Returns if Local Governments and Administrations were to omit pies from the value rates, *e. g.* the value rate of iron in the North-Western Provinces and Oudh for 1886-87 might be taken as Rs. 5-4-0 instead of Rs. 5-3-10, the figure adopted by the Director of the Department of Land Records and Agriculture of these provinces. (G. I., R. & A., No. 45-35-26 Stats., dated 9th May 1888; *vide* G. R. No. 4039, dated 20th June 1888.)

22. The scheme published in the foregoing circular of the Government of India dated 9th May 1888 has been accepted by all Local Governments and Administrations as a whole. With regard, however, to the proposal that a standard rate should be adopted for the sub-head "Others," the Director of Land Records and Agriculture, North-Western Provinces and Oudh, wrote as follows:—

"The articles, which form the bulk of trade, shown under these heads are but few; their prices differ considerably in different provinces, and in the same province they vary from year to year. It is not an uncommon thing to find a difference of 25 per cent. in their rates for two years. I would, therefore, propose that, of the articles coming under these heads, those that are most largely exported from any province may be determined once and for all by enquiries in the local markets; the prices of these should be ascertained each year and the values calculated according to the average of their prices each year."

The Government of India have no objection to this alternative plan being tried by the Government of the North-Western Provinces and Oudh, or by any other Government, as it will not interfere with the general scheme. (G. I., R. & A., No. 76-35-56 Stats., dated 29th August 1888; *vide* G. R. Nos. 6327, dated 19th September 1888, and 1009, dated 7th February 1889.)

23. The figures given in the subjoined statement should be adopted once for all as the value

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rates required for the sub-heads of "Animals" and for articles comprised in the several sub-heads specified as "Others" in the returns compiled by the Examiner of Guaranteed Railway Accounts, Bombay :—

(Name of head.)	(Value rates.)
	Rs.
Other Drugs	18
" Dyes	19
" Grains	3
" Metals	25
" Oils	17
" Oil-seeds	3
" Provisions	8
" Saline substances	11
" Spices	16
" Sorts, Tobacco	26
<i>Animals, Living—</i>	
Horned Cattle, per head	40
Sheep and Goats	3
Horses, Ponies and Mules	150
Other kinds	40

(G. Rs. Nos. 8987, dated 27th November 1889, and 1657, dated 4th March 1891.)

24. It having been urged that the mode of calculating average value rates per maund suggested by the Government of India in circular No. 45-35-26 Stats., dated 9th May 1888, for European merchandize exported inland, *viz.*, by obtaining the rates from the invoice values ascertained by the Customs House,

- | | |
|---------------------|------------------------------------|
| 1. Beer. | could not apply to the articles |
| 2. Spirits. | noted on the margin owing to |
| 3. Wine. | their being valued otherwise |
| 4. Kerosine oil. | than by the maund, the Govern- |
| 5. Silk, raw. | ment of India observed that in |
| 6. Foreign woollen | the case of articles Nos. 1 to 6 |
| piece-goods, Euro- | and 8, this difficulty can be sur- |
| pean. | mounted by finding out how |
| 7. Non-intoxicating | many gallons, yards or pieces |
| drugs and chemi- | go to a maund, and then |
| cals excluding cin- | working out values proportion- |
| chona bark. | ately. As regards No. 7, all |
| 8. Leather manufac- | that seems possible, is to apply |
| tured. | once for all an |

arbitrary rate which might be fixed by the Local Government in communication with the Collector of Customs, and with due regard to the trade in each article coming under this head.

The Government of India have no objection if for the heading "Intoxicating drugs other than opium" the actual cost of the drugs in question as manufactured for the market is, as in the case of opium, adopted for valuation purposes. In fixing the rate, however, due regard should be given as required by the Government of India's circulars Nos. 83-4-32 and 116-4-46, dated, respectively, 19th June and 7th September 1885, to the comparative extent of the trade carried out in each article coming under this head. (G. I., R. & A., No. 72-35-47 Stats., dated 1st August 1888; *vide* G. R. No. 6089, dated 8th September 1888.)

25. In calculating value rates for articles entered in the Rail and River-borne Trade Returns, the value rates for the imported articles of European merchandise noted on the margin, which are subject to duty, should be inclusive of the duty levied. (G. I., R. & A., No. 8-1-4 Stats., dated 4th February 1889; *vide* G. R. No. 1421, dated 20th *idem*.)

Liquors ...	{ Beer.	in the Rail and River-borne Trade Returns, the value rates for the imported articles of European merchandise noted on the margin, which are subject to duty, should be inclusive of the duty levied.
	{ Spirits.	
	{ Wine.	
Salt.		
Kerosine oil.		

26. The instruction that in the case of opium the actual cost of the article as manufactured for Government should be taken applies only to the provinces or blocks in which opium is cultivated for Government, *viz.*, Bengal, North-Western Provinces and Oudh, Rájputána and Central India.

In regard to the provinces in which opium is not cultivated for Government, the price at which it is sold locally should be the factor used in calculating the value of exports, if any, the value of imports being obtained by applying the value rates of the provinces or blocks from which opium is imported.

In the case of imports of the drug from the Rájputána and Central India block, however, it will be necessary, since no returns or value rates are furnished by that block, that each Local Government should ascertain and apply the price current in the Native State from which opium is imported into its territory. (G. I., R. & A., No. 20-9-13 Stats., dated 15th March 1889; *vide* G. R. No. 2487, dated 30th *idem*.)

27. The Commissioner of Customs and the Director of Land Records and Agriculture should supply the Examiner of Guaranteed Railway Accounts with the value rates required for the rail-borne trade returns. The value rates supplied by the two officers named above should also be applied by the Examiner to the local or internal trade of the Bombay Presidency. (G. R. No. 4950, dated 24th July 1888.)

28. The Director of Land Records and Agriculture should make the necessary arrangements for the regular and punctual supply to the Collector of Customs, Karáchi, of lists of value rates required to be published with the Sind Returns. (G. R. No. 7316, dated 15th October 1890.)

29. The authorized railway maund in which the weights of all rail-borne goods are, it is understood, exhibited in the Inland Trade Returns has been declared to be equivalent to 82½th lbs. Care should be taken to reduce all value rates to this standard in preparing the published schedule of rates and in working out the values of goods shown in the returns. (G. I., R. & A., No. 32-38-7, dated 20th October 1890; *vide* G. R. No. 8191, dated 19th November 1890.)

30. The following rules should be observed in all provinces for the calculation of value rates assigned to articles in the Inland Trade Returns:—

- (1) The values should be based on wholesale prices, not retail.

- (2) The values fixed for the quarterly returns may be the average of weekly or other periodical price quotations, or may be the average of prices prevailing on different dates during the period of active sale (as prescribed for the agricultural statistics returns in Government of India, Revenue and Agricultural Department, circular No. 5-52, dated 2nd March 1892), but should not be the prices prevailing merely on a single date.
- (3) The values fixed for the annual returns may be taken as one-fourth of the sum of the values fixed for the quarterly returns.
- (4) The marts, of which the prices are adopted, though they should be as representative as possible, need not exceed 3 or 4 in each province. (G. I., R. & A., No. 31-67, dated 13th June 1893; *vide* G. R. No. 5244, dated 20th July 1893.)

31. The value rates for articles of imports being now taken by each importing province from the schedules furnished by the exporting provinces, corrections of rates necessarily entail alterations in the whole series of Provincial returns and cause much inconvenience and delay. The schedules of rates should, therefore, be prepared after such careful calculation as will render subsequent revisions unnecessary. When a revision of the rates is unavoidable, the corrections rendered necessary in the figures representing value of goods in the returns of the province concerned should be circulated in the form of a list of errata to the officers, including those of the Government of India, to whom the returns have been supplied. (G. I., R. & A., No. 79-10-26, dated 31st October 1889; *vide* G. R. No. 8944, dated 26th November 1889.)

32. The utility of the Returns of Inland Trade depends in great measure on the care and accuracy with which the value rates are calculated; and though in some instances it may be difficult or impossible with the means available to obtain exact figures, no pains should be spared to render the statistics of value as correct as circumstances permit. (G. I., R. & A., No. 12-83-1 Stats., dated 19th February 1890; *vide* G. R. No. 2703, dated 21st April 1890.)

33. Values may be omitted from the quarterly returns, provided a table is appended to the return for the *last* quarter of the year under report, showing the value rates per maund for the *whole year*. Values should, however, be entered in the annual returns, to which should also be appended a table of value rates. (G. I., R. & A., No. 37-35-21, dated 23rd March 1888; *vide* G. R. No. 2036, dated 29th *idem*.)

34. A table of value rates for the quarter should be appended to each quarterly return of the rail-borne trade, and a similar table for the whole year should also accompany the returns for the last quarter, as required by paragraph 19 of the Govern-

ment of India's circular No. 37-35-21 Stats., dated 23rd March 1888. (G. I., R. & A., No. 42-35-25, dated 5th May 1888; *vide* G. R. No. 3823, dated 11th June 1888.)

35. A monthly statement showing the quantity of wheat, linseed and cotton imported by rail into Bombay port from each external block, and from the internal blocks of the Bombay Presidency, should be supplied by the Examiner of Railway Accounts direct to the Government of India* within six weeks from the close of the month to which it relates. The month dealt with in the statement will not be the calendar month, but a period of certain entire weeks, the traffic of a fraction of a week at the end of each month being included in that for the next month, except at the end of each half year. (G. I., R. & A., No. 420-10-18, dated 7th September 1889; *vide* G. R. No. 7165, dated 24th *idem*, and G. M. No. 7972, dated 21st October 1889.)

36. In the monthly returns of wheat, linseed, &c., imported by rail into Calcutta, Bombay, and Karachi it appears desirable to include also the imports by sea and coast. But as such receipts by ports other than Bombay are insignificant, the return may be confined to the port of Bombay, and published in the local *Government Gazette* as a local return under the signature of the Director of Land Records and Agriculture, the Imperial return published by the Government of India remaining unaltered. (G. R. No. 8023, dated 12th November 1890.)

37. The Chamber of Commerce, Bombay, having represented that it would add to the usefulness of the monthly statements of the imports of cotton, wheat, linseed and indigo into the city of Bombay by rail, the Commissioner of Customs, Salt, Opium and A'bkari should send monthly to the Director General of Statistics a return in the subjoined form. The return should be sent to Calcutta so as to reach the Director-General's office within thirty days from the end of the month to which it relates. It should be furnished as early as possible *before* publication in the *Bombay Government Gazette* :—

*Imports into the City of Bombay by Sea in the
Month of*

From	Cotton (Raw).	Wheat.	Linseed.	Indigo.
	Cwt.	Cwt.	Cwt.	Cwt.
Bengal			
Bombay Presidency			
Sind			
Madras Presidency			
Burma			
Non-British Ports in India			
Countries outside India			
Total ...				

*Under later instructions (*vide* G. I., R. & A., No. 15-52-6, dated 23rd May 1895; G. R. No. 4678, dated 21st June 1895) these returns are to be forwarded to the Director General of Statistics.

(Letters from the Director General of Statistics, Nos. 18-S. R., dated 29th April 1896, and 35-S. R., dated 6th July 1896; *vide* G. Rs. Nos. 4123, dated 25th May 1896, and 5736, dated 23rd July 1896.)

38. Statistics of indigo imported into the ports of Bombay and Karachi should be furnished for incorporation in the monthly statement of imports by rail into the chief seaport towns published by the Government of India. (G. R. No. 3400, dated 18th May 1891.)

39. Figures for poppy-seed, castor-seed, and ground-nuts instead of being lumped under the heading of "Other oil-seeds" should be shown separately in the monthly return of "Imports into Bombay port of important exportable produce" published in the *Bombay Government Gazette* under the signature of the Director of Land Records and Agriculture. This monthly return should be made up in maunds reduced to the hundredweight unit, the returns furnished by the Director continuing to be in units of maunds. (G. R. No. 6912, dated 30th August 1892.)

40. The cost of collecting and tabulating the rail-borne trade statistics will be settled by Local Governments and Administrations in communication with each other, as the charge is now a provincial one. The Government of India anticipates that there will be little or no increase in the total expenditure now incurred in collecting and tabulating the rail-borne statistics of India, while the introduction of uniformity and proper concentration throughout India in the system of registering and tabulating of statistics will, it is expected, diminish considerably the work now performed by registering offices, and will do away with the necessity for the constant references which result from the present system. (G. I., R. & A., No. 37 Stats. 35-21, dated 23rd March 1888; *vide* G. R. No. 2036, dated 29th idem.)

41. The charge of registering and tabulating in the East Indian Railway Audit Office at Jamalpur the statistics of traffic on the line and returning them to the Local Governments and Administrations concerned should be met rateably from Provincial Revenues by the Local Governments and Administrations to whom the Company furnishes the statistics. The Chief Auditor of the Company will settle in direct communication with Local Governments the portion of the charges debitable to each, and will, for this purpose, supply each Local Government with a memorandum showing what charges are incurred, what returns are furnished, to whom they are furnished, and the rateable distribution of charges which should, in his opinion, be made. (G. I., R. & A., No. 11-47-4 S., dated 10th June 1890; *vide* G. R. No. 5054, dated 19th July 1890.)

42. In the returns of the rail-borne trade, the actual weight of the consignment and not the weight

charged for by the Railway should be exhibited, the weight of packing being deducted in accordance with the rates of deductions prescribed in the Resolution of the Government of India No. 37-35-21, dated 23rd March 1888. (Letter from the Director General of Statistics, No. 38, dated 13th February 1896; *vide* G. R. No. 1958, dated 3rd March 1896.)

C.—ROAD AND RIVER-BORNE TRADE.

1. It should be carefully impressed upon all the local authorities that all registering posts, the trade of which is insignificant, should be dispensed with, and that no posts should be established except upon real trade routes. (G. I., F. & C., No. 1563, dated 7th July 1881; *vide* G. R. No. 4277, dated 23rd *idem*.)

2. There is no objection to the issue of passes by the *kárkúns* employed in Kánara to register the land trade of the Presidency in respect of arecanut, pepper and coffee passing across the frontier into Mysore territory. The passes will contain particulars of the consignments covered by them as dictated by the persons in charge, and will not be of any special validity as to the correctness of the particulars contained in them. The District Officers of Kánara should be watchful to prevent the *nákádárs* from making the issue of these passes a cover for the levy of blackmail on the carriers of goods passing their *nákás*. (G. R. No. 5333, dated 9th August 1882.)

3. In the Resolution of the 20th September 1878 (No. 9) the Government of India, in supersession of previous orders and arrangements, laid down that future reports and returns of the internal trade statistics, so far as its needs were concerned, should be confined to—

I.—Trade with neighbouring Native States.

II.—Trade along the chief routes, *i.e.*, along main rivers, roads, and railways.

III.—Trade of large towns and commercial centres.

These orders received the approval of the Secretary of State in His Lordship's despatch No. 193, dated the 14th November 1878.

In the course of arrangements which ensued with Local Governments, it was recognised that the trade by railways was much larger than that carried by rivers and roads; that the statistics available in the Audit Offices were positive and certain; and that while the former (railway-borne trade) was of Imperial importance, it might be left to Local Governments to register the latter (river and road-borne) in any way they chose for provincial purposes. In this view greater stress was laid by the Government of India on the registration of railway-borne trade. But in some provinces, as, for instance,

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in the Bombay and Madras Presidencies, the trade crossing the frontiers by road was considered of sufficient importance to form part of the registration scheme, while in Bengal, Assam, and the Punjab, the trade by river on the Ganges, Brahmaputra, and Indus was intimately connected with the railway-borne trade of those provinces. Under these circumstances, the Government of India, in 1880 and 1881, sanctioned the registration of trade by road across the borders of the Bombay Presidency at the following points:—

Districts in which posts are situated.	Number of Posts.
Rájputána, Central India. { Mahi Kántha ... Panch Maháls ...	2 3 (and one Translator).
Central India, Central Provinces, Berár and Nizám's Territory. { Khándesh ...	6
Nizám's Territory ... { Násik ... Sholápur ... Ahmednagar ... Kaládgi ...	1 1 5 1
Madras and Mysore. ... { Dhárwár ... Kánara ...	4 3
Total ...	26

at an annual cost of Rs. 12,500; and across the borders of the Madras Presidency at the following places:—

Districts in which posts are situated.	Number of registering stations.
Trade with Mysore—	
Cuddapah... ..	5
Belláry	15
North Arcot	6
Salem	3
Coimbatore	5
Nilgiris	2
South Kánara	7
Malabár	2
Trade with Nizám's Territories—	
Belláry	16
Kurnool	5
Godávery	5
Kistna	4
Trade with Yanaon—	
Godávery	8

at an annual cost of Rs. 22,332 from Imperial revenues, while in Bengal and the Punjab arrangements were made to effect river-borne trade registration conjointly with the registration of trade by

railway. The trade of large towns is registered separately, but forms an integral part of the scheme.

These arrangements the Government of India does not wish to disturb.

The registration of road traffic is, as already stated, a subject of Provincial, rather than Imperial, importance, and it is for Local Governments to decide how it should be dealt with. In some provinces a small moveable staff is maintained for the purpose of temporarily registering the traffic on any roads for which the information is specially required for public works or other purposes. In others, the road traffic between British territory and adjoining Native States is of sufficient importance to be continuously registered, while the registration of inter-provincial road traffic (*i.e.*, between British provinces) has been generally discontinued. The utility of the first expedient is obvious, and the second is in conformity with a request from the Secretary of State. The discontinuance of the third is due partly to considerations of expense, and partly to the belief that the ascertainment of inter-provincial trade is unnecessary. It has, however, been urged on the Government of India that, as the rail-borne trade of each province with other British provinces is already registered, it is important to supplement this with some knowledge of the inter-provincial road traffic, and that this knowledge might be easily obtained by periodically registering this traffic on the main roads by means of a small moveable establishment. It would not be necessary to maintain registering posts simultaneously on all the roads, but merely to bring the traffic of each main road leading from one province to another under registration at intervals of five or ten years. A recommendation to this effect has been made to the Government of India by the Statistical Conference, and it seems one which might be carried out in most provinces with very little expense and trouble. (G. I., R. & A., No. 12 Stats., dated 28th January 1884; *vide* G. R. No. 1968, dated 4th March 1884.)

4. The Government of India consider that the question as to the extent to which cart traffic is affected by railways is one that may properly engage attention in any system of road registration that may be adopted in any province. (G. I., R. & A., No. 62 Stats., dated 28th May 1884; *vide* G. R. No. 4983, dated 20th June 1884.)

5. The system of making deductions from gross weights of consignments according to the fixed authorised scale with a view to arrive at the net weights should be applied to the registration of the road-borne traffic in the Presidency proper as well as in Sind. The deductions should be made only when the gross weight is ascertained by weighment, or from invoices or other papers, and not when information regarding net weights is as easily procurable and as likely to be accurate as information

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regarding gross weights. (G. Rs. Nos. 2713, dated 29th March, 4897, dated 18th June, and 6919, dated 28th August 1884.)

6. The Government of India thinks it desirable in connection with the registration of road-borne traffic, to invite prominent attention to the main object which it has throughout had in view, that, namely, of securing information as to trade routes of all kinds, whether lying wholly within the boundary of one province or passing from one province to another. This information it is eminently desirable that the Government of India should possess, as it affords practically the only available means of ascertaining the desirability of making and subsidising local lines of railway or of improving road communications, and of deciding which of two or more rival routes is the more worthy of support.

There is some reason to apprehend that the prominence given in the Resolution of the Government of India No. 12 (Statistics), dated 28th January 1884, to the registration of "inter-provincial" traffic, *i.e.*, the traffic between one province and another, has led to the importance of ascertaining the course of "internal traffic," *i.e.*, traffic within the province being overlooked. In regard to the latter subject, the peripatetic establishments suggested in the Resolution of the 28th January 1884 are calculated to be of special utility, and the Government of India will therefore be glad if Local Governments and Administrations can consider the advisability of maintaining such establishments where necessary, or of employing from time to time in the registration of internal traffic some portion of the establishments already sanctioned for the registration of inter-provincial trade. It must be borne in mind that, though it would be desirable, if feasible without much expense, the continuous registration of local traffic either internal or inter-provincial along the same routes year after year is by no means essential, and that a very fair idea of the use made of the different trade routes of the province can be gained by the occasional or periodical registration of the trade passing over them.

The Government of India has no desire to impose on Local Governments the burden of compiling returns of road traffic, and would therefore suggest to the Local Governments and Administrations, which have been or are likely to be in a position to undertake road registration, that a statement of the roads, the traffic of which has been tested, should be included in the quarterly or annual reports on the rail-borne trade, with the addition of any results that may be considered worthy of notice or record. The Government of India will at the same time be glad to receive copies of any returns that may be collected by the Local Governments and Administrations concerned. (G. I., R. & A., No. 69-11-9 Stats., dated 16th May 1885; *vide* G. M. No. 4865, dated 15th June 1885).

7. The permanent registration of road traffic between the Bombay Presidency and the Native States should be discontinued, and the amount of such traffic should be roughly gauged from time to time by the accurate registration by a well-trained moveable establishment of the traffic along important trade routes, the latter being selected with special reference to the requirements for statistics of the Public Works Department. The diversity of languages spoken in the Bombay Presidency will no doubt introduce an element of difficulty into the registration by a single moveable establishment of the traffic of the entire Presidency, but it seems probable that by careful selection an establishment might be formed capable of working in two if not in all three tracts in which differences of language divide the Presidency. (G. I., R. & A., No. 180S.-18-7, dated 30th April 1886; *vide* G. R. No. 4353, dated 18th June 1886.)

8. By circular No. $\frac{29-8}{4-3}$ of 4th March 1884, the Government of India suggested the procedure which it desired to be followed, as far as circumstances permit, by the Local Governments for the collection of information for railway purposes, and annual statements of the various railway projects have been furnished to the provinces concerned, on the understanding that the routes mentioned would be reported on by the Agricultural or other Department specially entrusted with the collection of trade statistics. The Government of India is however but imperfectly aware of the extent to which action has been taken or the desired information supplied by the provinces.

2. The orders of the Secretary of State in his Despatch No. 73 of 10th December 1874, which required the registration of "trade along the chief routes in the provinces of British Territory," were made the basis of the scheme, and it was developed at the conference of 1876 and in subsequent orders and communications. In order to secure the object required by the Secretary of State, registration of trade was divided into two sections:—

- (1) Registration of traffic on railways and rivers by the agency of the Audit Offices of Railway and Steamer Companies.
- (2) Registration on the principal roads and rivers in each province in respect to which that agency is not available.

Regarding general measures required for the registration of traffic of the second class the Government of India has issued instructions from time to time.

3. The general scheme involved the maintenance of a trained moveable establishment, available not only for the ordinary registration of traffic along the various roads and rivers of the province, but for the supply of information required specially for Railway purposes from time to time. Special injunctions were given that traffic within the province should receive as full and careful attention as the inter-provincial traffic.

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4. The provinces were also asked to make special mention of road traffic in their reports on Internal Trade. But with occasional exceptions the subject has been noticed in these reports either very slightly or not at all.

5. It is to the registration of road and river traffic that the Government of India now desires to call special attention. The great importance of all information relating to the flow of trade and the resources of the tracts connected by the principal trade routes is obvious, especially for the promotion of railway enterprise in which private capital is engaged. Much information on this subject may be found in Gazetteers, Settlement reports and other records of Government, which might with advantage be reproduced in a form easily accessible to the public. Statistics should be collected not merely, as is generally the case, for a season or two which may be good or bad, but for a number of years, representative of the average capacities of the tract concerned. In case of famine, moreover, these statistics would furnish useful information regarding the sources from and the routes by which affected districts are likely to draw their supply of food.

6. With the object therefore of securing a closer adherence to the programme already prescribed, as well as for the attainment of the other objects mentioned above, the following general instructions are issued.

7. The Provincial Department in charge of the statistics of Internal Trade, preferably the Department of Land Records and Agriculture, should be required to draw up a systematic working-plan for the collection of all statistics of road and river traffic under orders of the Provincial Government and in communication with its Public Works Department. Such a plan would include arrangements for the maintenance of a properly trained permanent staff, which would render unnecessary the employment of inexperienced agency.

8. In framing the plan, attention should be given, in the first place, to the probable requirements of the Public Works Department for information in connection with railway enterprise; and in the next, to the special registration of any considerable or important branches of inter-provincial traffic which escape record by the existing rail or river agencies.

9. Full information should be given in the annual reports on Inland Trade regarding the employment of the trained staff, and the information which it has collected, either for general purposes or in compliance with requisitions for the Public Works Department.

10. In dealing with the latter class of cases the following rules of procedure are laid down :—

(a) As soon as it becomes probable in the opinion of the Public Works Department that a new line of railway will be constructed, intimation will be given to the Department of Revenue and

Agriculture, which will then communicate with Local Governments with the view of their obtaining through their Departments of Agriculture information regarding the route it should follow. It is preferable that separate intimation should be given in each case, as by this means a longer notice will be secured than by an annual statement.

(b) In each case a sketch map and any papers showing the considerations upon which the construction of a railway along the proposed route is advocated and the particular advantages which it is expected to secure, will be supplied to the Local Governments for transmission to their respective Departments of Land Records and Agriculture.

(c) If there are any special points to which it is desirable that investigation should be directed, these will be stated in forwarding the requisition.

(d) In addition to any special information called for, the first report on each project should embody information on the following points:— (i) the area and population of the tract likely to be benefited by the railway; (ii) the pressure of population on the soil and the probable utility of the railway in relieving congestion, if it exists, or of opening up waste lands in thinly populated areas; (iii) the agricultural products of the tract, its capacity as an exporter or importer, and the probable effect of the railway on agricultural prices and rents; (iv) the liability of the tract to famine and the utility of the railway as a protective work; (v) the mineral and timber resources, if any, of the tract; (vi) the general character and extent of the import and export trade, and of the manufactures of the tract, especially in the seaports, if any, and principal towns; (vii) the possible effects of the projected railway on existing industries and trade routes, whether by road, river or sea; (viii) the prospects of a profitable passenger traffic with reference to the character of the inhabitants, the existence of places of pilgrimage, fairs, &c., and (ix) particulars regarding the wages of ordinary and unskilled labour in illustration of the condition of the bulk of the population.

(e) The information thus collected will be presented to the public in a suitable form, and measures will be taken to bring it up to date from time to time.

(f) When the survey of a line has been resolved on, or at such later stages as may appear desirable and upon fresh requisition of the Imperial Public Works Department, the Government of India will call for such supplementary and special information as may be required.

(g) In each case the Public Works Department will fix approximately the date by which the report is required, and the report will be submitted to the Government of India in the Revenue and Agricultural Department, which will forward it

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together with such additional information and expression of opinion as may be desirable to the Public Works Department. The date so fixed will allow sufficient time to enable Local Governments to establish special registering posts for the purpose of securing statistics fairly representative of the trade of the tract throughout the year. These statistics, combined with those collected under (d), should be so presented as to afford as complete an indication as possible of the capacity of the line for the service of through traffic to and from other provinces of the empire and the principal seaports. (G. I., R. & A., No. 18-32-5 S., dated 9th July 1890; *vide* G. R. No. 5803, dated 18th August 1890.)

9. The suggestions made by the Government of India in their following letter No. 518-57-3 Stats., dated 5th June 1890, relative to the accurate preparation of statistics of trade between Sind and the Punjab are being carried out since 1st April 1890:—

“In reviewing the Rail and River-borne Trade returns, it has been found that, owing to the manner in which the Indus river traffic is at present dealt with, the trade of Sind and the port of Karáchi with the Punjab is not correctly represented in the Imperial statements. This river traffic constitutes a large proportion of the total trade of Sind. In 1888-89 it was valued at 96 lakhs as compared with 447 lakhs, the value of the rail-borne traffic. In the Imperial returns the rail traffic and river-borne traffic are amalgamated, but the latter appears under the head of trade between Sind, excluding Karáchi and the Punjab. There is good reason to believe, however, that a considerable portion of the produce despatched from the Punjab *via* the Indus takes the rail at Sukkur and Kotri for Karáchi for export by sea, and conversely, that many of the goods which are imported by sea into Karáchi, and thence despatched by rail to Sukkur and Kotri, there take the river for the Punjab. If, therefore, the river trade were correctly classified, all these transactions would appear as trade with Karáchi and not with Sind.

“2. The result of the present system is that not only is the apparent trade of the Punjab with Karáchi less, and the trade with Sind as distinct from Karáchi greater, than it actually is, but that the trade between Sind and its port, as returned, includes all the Punjab exports which take the rail at Sukkur and Kotri for Karáchi. Some of the difficulties and inaccuracies resulting from this imperfect classification and duplication of figures will be found referred to at pages 15, 21 and 36 of the Review of the Inland Trade of 1888-89. The case of the wheat trade affords a striking example of the necessity for altering the present system of double registration. In 1887-88, 358,097 maunds of wheat were registered as sent by river from the Punjab into Sind, and 591,103 maunds as sent by rail from Sind to Karáchi. Of the latter 316,365 maunds were despatched from Sukkur and Kotri to the port. This latter consignment, there is good reason to believe, consisted of Punjab wheat floated down the Indus as far only as Sukkur and Kotri for conveyance thence by rail to Karáchi. Three lakhs of maunds of wheat therefore appeared twice over in the returns, and in both instances wrongly classed—once as an export from Punjab to Sind, and again as an export from Sind to Karáchi.

“3. The Government of India is desirous that early measures should be taken to correct the defects referred to, and I am instructed to make the following suggestions for the consideration of the Government of Bombay, and to request that, if no objection is found to them, they may be adopted

in compiling the Sind returns with effect from the commencement of the current official year, *viz.*, 1st April 1890.

"4. The first step necessary is to bring the Provincial returns into correspondence with the Imperial statements, and for this purpose the quarterly and annual return No. I of the prescribed forms should show the traffic by both rail and river. The enclosed forms* are suggested for adoption. The next point to be considered is the separation of the Indus traffic into trade with Sind and trade with Karáchi. As at present advised, the Government of India is inclined to the opinion that it is impossible without an entire change in the existing system of registration to determine with exactitude what quantity of the Punjab goods which take the rail after a journey down the Indus, actually goes to Karáchi. But it is believed that upon the existing system results may be attained which, though approximate only, will represent the facts far more closely than at present.

"5. It is inferred from the previous correspondence on the subject, of which copies were forwarded with my letter No. 42-10-4 (Statistics), dated 8th April last, that very little of the downward river traffic goes below Kotri and Sukkur, and that so much of it as is intended for Karáchi takes the rail at these stations and is despatched direct to the port town. I am directed to recommend to His Excellency the Governor in Council the following rules, which are framed in pursuance of the above inference. Their application is illustrated by exemplar entries and detailed explanations in the forms* enclosed. Similar instructions have been communicated to the Punjab Government.

I.—When the imports by river from Punjab exceed the imports by rail from Sukkur and Kotri into Karáchi—class the latter as imports from Punjab into Karáchi, and the difference as imports from Punjab into Sind.

Under trade between Sind and Karáchi by rail exclude the exports from Sukkur and Kotri to Karáchi and enter the remainder.

II.—When the imports by rail from Sukkur and Kotri into Karáchi exceed the imports by river from Punjab—class the latter as imports from Punjab into Karáchi, and the difference *plus* the exports from other stations in Sind to Karáchi as trade between Sind and Karáchi.

III.—When the exports by rail from Karáchi to Sukkur and Kotri exceed the exports by river to Punjab—class the latter as exports from Karáchi to Punjab, and the difference *plus* the exports from Karáchi to Sind (excluding Sukkur and Kotri) as trade between Sind and Karáchi.

IV.—When exports by river to Punjab exceed the exports by rail from Karáchi to Sukkur and Kotri—class the latter as exports from Karáchi to Punjab, and the difference as exports from Sind to Punjab.

Under trade between Sind and Karáchi by rail exclude the exports from Karáchi to Sukkur and Kotri and enter the remainder.

"6. To admit of the calculations required by the foregoing rules, it is necessary that the trade of Karáchi with Kotri and Sukkur and the rest of Sind, and *vice versa*, should be separately registered. The necessary instructions on the subject have been issued, and I am to enclose a copy for

Office memorandum† to
Public Works Department,
No. 516 Stats. dated 5th
June 1890.

* Not printed.

† "The undersigned is directed to state that it has been found that the greater portion of the traffic between Sind and the Punjab by the River Indus takes or leaves the railway at Sukkur and Kotri, and in order to classify this traffic correctly it is desirable that the trade by rail between Karáchi and

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the information of the Government of Bombay. The statement of Sukkur and Kotri trade with Karáchi received from the Examiner of Accounts, Lahore, under these instructions, and the return of Indus traffic which the Conservator and Registrar, River Indus, will be instructed to furnish to the Collector of Customs, Karáchi, should be printed as appendices in the quarterly and annual inland trade returns of Sind. I am also to request that an explanation may be given in each annual report of the system on which the Indus traffic figures are classed under the respective headings of trade with Karáchi and trade with Sind.

"7. The Government of India is aware that the amplification of Statement I, and the application of necessary corrections to the river statistics therein exhibited, cannot be effected without some additional labour. But in view of the increasing importance of the registration of the internal trade of the country the Government of Bombay will, it is trusted, recognize the desirability of carrying into effect additional improvements which are essential for the accurate and comprehensive exhibition of these statistics."

(G. I., R. & A., No. 518-57-3, dated 5th June 1890; *vide* G. R. No. 5557, dated 9th August 1890.)

10. Although the Resolution of the Government of India, No. 37-35-21, dated 23rd March 1888, dealt exclusively with the registration and review of rail-borne trade, it was not intended to cancel or supersede the instructions contained in Resolution No. 69, dated 16th May 1885, on the subject of road traffic. The annual Inland Trade Report should, in addition to a review of the rail-borne trade, comprise a sufficient review of the measures taken for the registration of inland trade by other channels of communication and of the principal statistics collected. (G. I., R. & A., No. 27-81, dated 5th July 1892; *vide* G. R. No. 6135, dated 28th *idem*.)

D.—SEA-BORNE TRADE.

1. Monthly statements showing the quantity and value of all cotton exported from the several ports in the Bombay Presidency and specifying the places to which the cotton was shipped, should be furnished to Government. The statements should be prepared and transmitted as soon as possible after the close of each month, and should include information as regards the external foreign trade only. The quantity of cotton should be shown in pounds which should be totalled and this total should also be converted into candies. (G. R.

Sukkur and Kotri should be registered separately from the traffic between Karáchi and other stations in Sind. The undersigned is accordingly to request the favour of instructions being issued to the Examiner of Accounts, North-Western Railway, to register the trade of Sind with Karáchi, with effect from the 1st of April 1890, under the following heads:—

- (a) Imports from Karáchi into (1) Sind, excluding Sukkur and Kotri,
(2) Sukkur and Kotri.
- (b) Exports to Karáchi from (1) Sind, excluding Sukkur and Kotri,
(2) Sukkur and Kotri.

"2. The statistics should be furnished quarterly and annually to the Financial Commissioner, Punjab, and the Collector of Customs, Karáchi, in Form † I here-with enclosed. In Form † I, (also enclosed), which it is understood is already furnished by the Examiner to the Collector of Customs, Karáchi, the entries showing the trade between Karáchi and the rest of Sind should be left blank, as they will be filled in Form II by the Collector of Customs, Karáchi, under instructions which have been issued to that officer."

No. 765, dated 10th March 1863, and G. Ls. Nos. 961 and 962, dated 24th March 1863, and 1282 and 1283, dated 22nd April 1863.)

2. The Commissioner in Sind should submit monthly returns showing the export of wheat from the ports in Sind to Foreign External and Foreign Indian Ports. (G. M. No. 5207, dated 12th September 1876.)

3. The several Customs Houses should submit to the Chief Customs authority in each Presidency or Province monthly returns of the sea-borne trade and navigation for their respective ports, for consolidation in a monthly return for that Presidency or Province. The Commissioner of Customs should forward direct a copy of this consolidated monthly return to the Government of India for further consolidation in a General Monthly Return of Trade and Navigation for India, which will be published for general information in the *Gazette of India*. (G. I., F. D., No. 3138, dated 25th October 1865; *vide* G. R., F. D., No. 1034, dated 12th December 1865.)

4. The Commissioner in Sind and the Commissioner of Customs should arrange to submit to the Government of India the Monthly Returns of Trade and Navigation for the ports within their respective charges within three weeks of the expiry of the period to which they relate. It is neither necessary nor desirable that the whole of the forms should be despatched on the same date. Each form should be despatched directly it is ready. In transmitting the returns in instalments as ready those of the foreign trade and shipping should, if practicable, be first posted and the despatch of the duplicate set of returns may be postponed until all the originals have been posted if any time can be saved by this arrangement.

Great care should be exercised in the preparation of the returns. It is essential that all corrections which may be found necessary should be carried out locally, and that they should be reported in the prescribed errata statements, in order that the compilations of the Government of India may be revised; but a great proportion of the very serious labour involved in carrying out the numerous revisions hitherto found requisite would most probably be rendered unnecessary if due attention were paid to the correct preparation of the returns in the first instance. (G. I., R., A. & C., Nos. C 29-32, dated 25th April, 422-C.-425-C., dated 4th October, and 612, dated 9th December 1876, and G. I., F. & C., No. 1112, dated 20th May 1884; *vide* G. R. Nos. 279, dated 8th May 1876, 5897, dated 16th October 1876, 7459, dated 19th December 1876, and 4565, dated 6th June 1884.)

5. The officers concerned should use their best endeavours in submitting the returns to the Government of India before the prescribed time, and in case of any delay occurring in the submission of the

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returns by the prescribed date, a report should be immediately made to Government with an explanation of the cause of such delay. (G. R. No. 2790, dated 8th May 1876.)

6. The Commissioner of Customs, Salt, Opium, and A'bkari and the Commissioner in Sind should forward the monthly returns of the sea-borne trade of their respective charges direct to the Superintendent, Government Central Press, for publication in the *Government Gazette*. The Superintendent should arrange to publish them in the *Government Gazette* as soon as possible after the date of receipt and should furnish the Revenue Department of the Secretariat with two copies of each of the returns as published. (G. R. No. 1746, dated 28th February 1885.)

7. Her Majesty's Secretary of State for India having had under his consideration the subject of improving the form in which the monthly and annual accounts of the Trade and Navigation of the several provinces of British India were rendered, a Committee of experienced gentlemen was appointed in England by His Lordship to advise in the matter.

On some of the points raised by the Committee's report, immediate action seemed possible and desirable, and in regard to these the Government of India addressed the Government of Bombay as follows:—

"2. In the Secretary of State's despatch on the subject, His Lordship remarks:—

" 'It is most desirable that, as far as it can be arranged, the Trade Returns of India should be prepared in a form which will admit of ready comparison with those of the United Kingdom. On this point I would draw your attention to the remarks of the Committee as to the countries and the denomination of articles.'

" The remarks of the Committee are as follows:—

" '10. In Table 3 of the Indian statement the trade with Europe is thus summarised:—

United Kingdom.	Germany.
Suez (trade being European).	Mediterranean Ports.
France.	Other countries in Europe.

In a foot-note to table 19, the distribution of the merchandise among the 'other countries' is shown, but there is no detailed account of the treasure.

" '11. We are strongly of opinion that the heading of "Suez," as applicable to goods which are in transit between India and Europe, should be abandoned, and that the whole of the trade should be classed under the country to or from which it is sent. A return of the aggregate trade passing through the Suez Canal might, however, be kept up, if convenient.

" '12. The title of "Mediterranean ports" is a very disturbing one in the classification; it includes Genoa, Venice, Ancona, Brindisi, and Sicily which should be combined under Italy,—Trieste, which should come under Austria,—Malta, which should be placed by itself (all these belonging to Europe,—Alexandria, which falls under Egypt and is African,—and Smyrna and Beyrout, which should be ranged under Turkey in Asia. It is a question whether

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trade which is known to be intended for an inland country (as Switzerland) should be entered under that country, or under the one to which belongs the port of disembarkation: we recommend the latter course as the least likely to lead to confusion.

“ 13. There would be some advantage if the table furnished by the Government of India for the chief countries were to specify the port to or from which the trade is conveyed, as is done in the reports of the local Governments with regard to Germany and the Mediterranean ports. Thus France might be sub-divided into Bordeaux, Havre, Marseilles, &c.; Italy into Ancona, Brindisi, Genoa, Naples, Palermo, Venice, &c. We would not, however, recommend this unless the local Governments already receive the information, as, if not otherwise collected in such detail, its preparation would involve much greater expense and delay than it would be worth. In any case we should not consider it necessary to publish information of so detailed a character, though it would occasionally be very useful for reference in this office. Nor do we think it essential to sub-divide the United Kingdom, seeing that in that case the most complete details can be readily obtained from the Board of Trade.

“ 14. Among the remaining countries we find irregularity in the classification adopted in the reports of the local Administrations. In Africa, the Cape of Good Hope should include the trade with port Elizabeth; the Eastern Coast would comprise the seaboard between Natal and Abyssinia, which last-named country should be separately shown if any trade with it is recorded; Egypt would include Alexandria and Port Said, and Suez, so far as the traffic is of a local character. In the forms prepared we have thrown the West Indies into one column, but in the returns compiled by the Government of India it might be well that the trade with the several islands should be separately shown, as suggested in regard to the chief ports in Europe. That with Aden is, we think, rightly treated as foreign trade, although it is a British Indian possession. The trade with the Andaman and Nicobar Islands should be treated as interportal like that between Madras and British Burma. We would not class the trade with Cutch, Pondicherry, Goa, Travancore, and other places on the seaboard of India, as foreign, but would have it treated as coasting or interportal, showing it, however, distinct from the British Indian coasting trade in the returns, as provided for in Forms 5, 6, 13, and 14. The commerce with China is of so important a character, that we would specify separately what portion goes to the British colony of Hongkong, and what to the Treaty ports. The trade now entered under the titles of Persian Gulf and Red Sea should be divided into Persia, Arabia (sub-divided into the territories of the Imám of Maskat and the other States as is done in the trade statement of the United Kingdom), Egypt, and Abyssinia. Under Siam should be included the trade from British Burma with the island of Junk, Ceylon or Salang, which belongs to that country. The Australian trade should be shown under the separate colonies.

“ 15. With regard to the column showing the *quantity* of the article imported or exported, it is evident that in many cases it is impossible or useless to specify it, and the value only will have to be inserted. We think it, however, most important that, where the quantity of any given article can be stated, uniformity in its denomination should be preserved. * * * * *

“ 16. We trust that instructions may be given for entry of each class of goods under a single denomination, so that there shall be only one denomination for piece goods

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namely that of yards; only one denomination for thread or twist, namely, that of pounds; only one for manufactures of jute, namely hundredweights, and so forth.

“17. It would be convenient, in determining the denomination under which each article should be entered, to make the terms correspond as far as possible with those adopted in the United Kingdom; and our tables have been prepared with this view. An alphabetical index of article (of which we submit a specimen*) should be placed in the hands of each Custom House officer at the various ports to facilitate uniformity of entry. The experience of the local officers will no doubt suggest many additions which may with advantage be made to the list for the guidance of the Customs officers at the ports. We propose to have separately enumerated all articles which, either for import or export, are of importance, whether on account of the magnitude of the transactions, or on account of their paying duty; and to class all others as uneumerated.’ * *

“3. I am now to enclose printed copies of—

(A)—An alphabetical list* of articles showing the manner in which they are to be classified in the local returns.

(B)—A list of foreign countries as these are to be shown in the returns in future.

* * * * *

“6. I also enclose an alphabetical index* to list A which will be of great use to Custom House officers in determining the classification of imports and exports in accordance with list A.

“7. The list B may probably be accepted as final. The remarks of the Committee quoted above explain the difference between the existing and new classification of countries and I am to request that copies of the list may be forwarded to all ports for adoption in the local returns with effect from the 1st April next ensuing. It will be noted that goods intended for an inland country, such as Switzerland, should be entered under the country to which belongs the port at which they are landed. Also that the present heading of ‘Suez’ in various tables throughout the volume will disappear: the European trade passing through that place will be classed under the country of destination. In place of this an additional table should be prepared for insertion in Part I of the volume, immediately after form No. 4, showing the aggregate trade passing through the Suez Canal. The figures should be given in the following form:—

No. 5.

Return showing the aggregate trade passing through the Suez Canal from and to India.

Year.	FROM INDIA.			TO INDIA.			TOTAL BOTH WAYS.		
	Merchandise.	Treasure.	Total.	Merchandise.	Treasure.	Total.	Merchandise.	Treasure.	Total.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.

*Not printed.

"8. In the local statements of navigation (Part V of the annual report) sailing vessels and steamers should no longer be massed together as at present, but be separately shown in all the tables contained in that part. This may be best effected by the addition of two columns to each of the sub-divisions of the tables. Thus the present table No. 74 shows the total number and tonnage of British and Foreign vessels (sailing and steam) entered and cleared with cargoes and in ballast from and to foreign countries and ports in other Presidencies * * In future this form should be thus prepared—

		FROM AND TO FOREIGN PORTS.																	
NATION- ALITY.		WITH CARGOES.			IN BAL- LAST.			TOTAL.			WITH CARGOES.			IN BAL- LAST.			TOTAL.		
		STEAMERS.		SAILING VESSELS.	STEAMERS.		SAILING VESSELS.	STEAMERS.		SAILING VESSELS.	STEAMERS.		SAILING VESSELS.	STEAMERS.		SAILING VESSELS.	STEAMERS.		SAILING VESSELS.
		Tonn.		Tonn.		Tonn.		Tonn.		Tonn.		Tonn.		Tonn.		Tonn.		Tonn.	
		ENTERED.						CLEARED.											
British, &c.																			
Total																			

and so on through the other forms of this Part.

"9. The Secretary of State, in connection with this subject, desires to be informed what reliance can be placed upon the returns relating to the building and registration of vessels in India which are transmitted direct from the ports to the Office of the Registrar-General of Shipping and Seamen in London. The Governor General in Council does not apprehend that there is any reason to question the accuracy of the returns, which are based, it is presumed, upon the certificates of registry granted under the terms of the Merchant Shipping Act by the local registrar of shipping. I am to request, however, that a report may be furnished showing the system observed and the manner in which it is carried out in practice, and what checks and safeguards exist to ensure perfect accuracy. It is also requested that the particulars furnished in these returns may be embodied in future in an additional form which, as No. 74, may precede the present form 73 in Part V of the annual volume, this latter becoming No. 75, and the number of the subsequent forms being similarly changed throughout. A similar return made for five years should also appear among the abstract tables in Part I, where it would precede the present form No. 26, taking this number, the numbers of the remaining forms being similarly changed throughout. This return should show the number and tonnage of all vessels, distinguishing sailing vessels and steamers built and first registered at each port for the year, and the simplest form would probably be as follows:—

Number and Tonnage of Sailing and Steam Vessels built and first registered at each port in

during the year and the four preceding years.

Port.	OFFICIAL YEAR.						OFFICIAL YEAR.						OFFICIAL YEAR.						OFFICIAL YEAR.						OFFICIAL YEAR.							
	STEAMERS.		SAILING.		TOTAL.		STEAMERS.		SAILING.		TOTAL.		STEAMERS.		SAILING.		TOTAL.		STEAMERS.		SAILING.		TOTAL.		STEAMERS.		SAILING.		TOTAL.			
	Vessels.	Total tonnage.	Vessels.	Total tonnage.	Vessels.	Tons.	Vessels.	Total tonnage.	Vessels.	Total tonnage.	Vessels.	Tons.	Vessels.	Total tonnage.	Vessels.	Total tonnage.	Vessels.	Tons.	Vessels.	Total tonnage.	Vessels.	Total tonnage.	Vessels.	Tons.	Vessels.	Total tonnage.	Vessels.	Total tonnage.	Vessels.	Tons.		
Madras ...	From 10 to 100 Tons ...		Above 100 to 300 " ...		Above 300 " ...																											
	Total ...																															
	From 10 to 100 Tons ...		Above 100 to 300 " ...		Above 300 " ...																											
	Total ...																															
Vizagapatam ...	From 10 to 100 Tons ...		Above 100 to 300 " ...		Above 300 " ...																											
	Total ...																															
	From 10 to 100 Tons ...		Above 100 to 300 " ...		Above 300 " ...																											
	Total ...																															
Bimlipatam ...	From 10 to 100 Tons ...		Above 100 to 300 " ...		Above 300 " ...																											
	Total ...																															
	From 10 to 100 Tons ...		Above 100 to 300 " ...		Above 300 " ...																											
	Total ...																															
(And so on for other ports)																																
Total ...																																

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* * * * *

"11. A duplicate of the returns now furnished by the registrar at each port to the Registrar General of Shipping and Seamen in London should in future be forwarded to this Department for transmission to Her Majesty's Secretary of State.

B*

LIST OF FOREIGN COUNTRIES (to be adopted in the returns of trade).

Europe.

1. UNITED KINGDOM.
 2. AUSTRIA-HUNGARY.
 - i. Trieste.
 - and so on.
 3. BELGIUM.
 4. DENMARK.
 5. FRANCE—
 - i. Dunkirk.
 - ii. Havre.
 - iii. Brest.
 - iv. Nantes.
 - v. Bordeaux.
 - vi. Marseilles.
 - and so on.
 6. GERMANY—
 - i. Hamburg.
 - ii. Bremen.
 - and so on.
 7. GREECE.
 8. HOLLAND.
 9. ITALY—
 - i. Ancona.
 - ii. Brindisi.
 - iii. Palermo.
 - iv. Messina.
 - v. Leghorn.
 - vi. Genoa.
 - vii. Venice.
 - and so on.
 10. MALTA.
 11. NORWAY.
 12. PORTUGAL.
 13. RUSSIA—
 - i. Odessa.
 - ii. Riga.
 - and so on.
 14. SPAIN—
 - i. Barcelona.
 - ii. Cadiz.
 - iii. Gibraltar.
 - and so on.
 15. SWEDEN.
 16. TURKEY IN EUROPE.
 17. OTHER COUNTRIES IN EUROPE.
- Africa and adjacent Islands.*
18. ABYSSINIA.
 19. CAPE COLONY—
 - Algoa Bay.
 - Cape Town.
 - Port Elizabeth.
 - and so on.
 20. EASTERN COAST OF AFRICA (comprising the coast between Natal and Abyssinia)—
 - i. Mozambique.
 - ii. Zanzibar.
 - iii. Other ports.
 21. EGYPT—
 - i. Alexandria.
 - ii. Port Said.
 - iii. Suez (for local trade).
 - and so on.
 22. MADAGASCAR.
 23. MAURITIUS.

* List B has been printed here as revised from time to time.

- 24. NATAL.
- 25. REUNION (BOURBON).
- 26. ST. HELENA.
- 27. OTHER COUNTRIES IN AFRICA—
 - i. Tunis.
 - ii. Tripoli.
 - iii. Algiers.
 - and so on.

America.

- 28. CANADA.
- 29. CENTRAL AMERICA
- 30. SOUTH AMERICA—
 - i. Demerara.
 - ii. Rio de Janeiro.
 - iii. Buenos Ayres.
 - iv. Callao.
 - v. Valparaiso.
 - and so on.
- 31. UNITED STATES—
 - i. New York.
 - ii. Boston.
 - iii. Charleston.
 - iv. New Orleans.
 - and so on.
- 32. WEST INDIES—
 - i. Jamaica.
 - ii. Cuba.
 - iii. Trinidad.
 - and so on.
- 33. OTHER COUNTRIES IN AMERICA—
 - i. Honolulu.
 - and so on.

Asia.

- 34. ADEN.
- 35. ARABIA—
 - i. Territories of the Imám of Maskat.
 - ii. Other Arabian States.
- 36. BORNEO.
- 37. CEYLON.
- 38. CHINA—
 - i. Hongkong.
 - ii. Treaty Ports.
- 39. COCHIN-CHINA—
 - i. Saigon.
 - ii. Tonquin.
 - and so on.
- 40. JAPAN.
- 41. JAVA.
- 42. MALDIVES (except Minicoy which is to be regarded as a British Indian port subordinate to the presidency of Madras).
- 43. MUKRAN AND SOMIÁNI.
- 44. PERSIA.
- 45. PHILIPPINES.
- 46. RUSSIA IN ASIA—
 - i. Batoum.
- 47. SIAM.
- 48. STRAITS SETTLEMENTS.
- 49. SUMATRA.
- 50. TURKEY IN ASIA—
 - i. Smyrna.
 - ii. Beyrout.
 - and so on.
- 51. OTHER COUNTRIES IN ASIA—
 - i. Celebes.
 - ii. Macassar.
 - and so on.

Australia.

- 52. NEW SOUTH WALES.
- 53. NEW ZEALAND.
- 54. QUEENSLAND.
- 55. SOUTH AUSTRALIA.
- 56. VICTORIA.

57. WESTERN AUSTRALIA.
 58. TASMANIA.
 59. AUSTRALASIA—
 i. Fiji islands.
 and so on.
 60. AGGREGATE RETURN OF TRADE PASSING THROUGH THE
 SUEZ CANAL.

"N.B. 1.—Endeavours should be made to show the trade with chief countries in detail separately for each part as well as in a total for the country, wherever this is possible.

"2. The trade passing via Suez should no longer be shown under that head, which disappears from the list, but under the countries of destination.

"3. The present heading 'Mediterranean Ports' also disappears, each port being classed under the country to which it belongs.

"4. Trade with an inland country must be classed under the country to which belongs the port at which the articles are landed.

"5. Trade with the Andaman and Nicobar Islands as well as with the Laccadives, and with Minicoy (one of the Maldives) to be treated as Coasting or Interportal.

"6. Trade with ports in India subject to Foreign Governments, European or Native, to be treated as 'Foreign Coasting' under a separate head from the Coasting Trade of British India.

"7. The present heads 'Persian Gulf' and 'Red Sea' disappear, the trade being classed under the countries to which the ports of the adjacent coasts belong.

"8. Under Siam is to be classed the trade between British Burma and the Island of Junk Ceylon or Salang."

(G. I., R., A. & C., No. 79, dated 22nd January 1875; vide G. R. No. 699, dated 4th February 1875.)

8. The following points should be borne in mind in getting filled in by shippers the shipping bills prescribed in the Customs Act for use in the case of all exports and imports:—

Column 1.—Here, besides the name of the vessel, it must be noted whether it is a steamer or a sailing vessel.

Column 4.—Here the detail of port or place must be filled in with due advertence to the schedule B. attached to Circular No. 79, dated 22nd January 1875, and it must also be noted whether the vessel is to pass through the Suez Canal or not.

Column 8.—Goods must be accurately described under the appropriate headings or sub-headings of list A of Circular No. 79 referred to above and the particulars required by column 2 of that list invariably inserted.

Column 11.—Where the goods are dutiable *ad valorem*, column 11 will merely reproduce the figures of column 10; but in the case of goods not liable to duty, or liable to fixed duties according to weight or quantity only, or to duties on fixed tariff valuations, column 11 must under the provisions of section 26 of the Act faithfully declare the real value of the goods, and any misstatement

on this point would render the declarer liable to the penalties prescribed in section 216. Hitherto, it is known that, in some Custom Houses at any rate, no endeavours have been made to secure the accurate record of the real value of any goods not dutiable *ad valorem*, and the consequence has been that the imperial total value of goods exported has been made up to a very slight extent of real values recorded in regard to the very few articles of export taxed *ad valorem*, but mainly of fixed duty or tariff values and values recorded almost at random (and entirely unchecked by the Customs officials) by the parties concerned. It is hoped that in future special care will be taken to secure the record in all cases in this column of the real value at the wholesale market rate of the day.

4. Turning to the landing pass, it has to be remarked that in the heading when noting the ship, the importer must specify not only her name, but whether she is a steamer or a sailing vessel; that the port whence she has arrived must be noted with reference to the detail given in Schedule B. of Circular No. 79, and that it must also be stated whether the vessel has passed through the Suez Canal or not.

In *Column 3* the goods must be accurately described under the appropriate headings or sub-headings contained in the list of articles, Schedule A. of Circular No. 79 referred to above.

In *Column 4* the particulars required by column 2 of that list must be invariably entered.

After *Column 6* a new column (7), corresponding with column 11 of the Shipping Bill, *viz.*, "declared real value under section 26," must be inserted. All the remarks above made in reference to column 11 of the Shipping Bill are equally applicable to this new column 7 of the landing pass. (G. I., R., A. & C., No. 87, dated 22nd January 1875; *vide* G. R. No. 708, dated 4th February 1875.)

9. In revising the tabular forms in which statistics relating to trade and navigation are to be given, as in the issue of orders regarding the preparation and submission of these statistics, the objects mainly kept in view by the Government of India have been—

- (1) to place on record more information under some heads than was then available;
- (2) to ensure accuracy in the statistics furnished by the Local Governments, and identity in the final results published by the Government of India and the Local Governments respectively;
- (3) to secure a proper classification of countries and articles and uniformity in these and in the denominations of weight, measure, or quantity recorded in the returns;

- (4) to re-arrange the forms of the local annual accounts so as to bring them as far as possible into conformity with the consolidated annual account of the Government of India, and facilitate reference from one to the other ; and
- (5) to remodel the forms of the annual volume published by the Government of India on the basis of the present returns of the English Board of Trade.

Lists of countries and articles were circulated with the Government of India's circular No. 78-81, dated 22nd January 1875, and Local Governments were invited to suggest such additions to the list of articles as they might consider desirable.

In circulating a list of the articles which it proposed to retain in its own returns, the Government of India had no intention of prescribing the excision from the returns published by Local Governments of any articles now separately shown there. Any of these may be retained that the Local Government desires,—all that is necessary is that they should occupy an appropriate position amongst the other articles, due regard being had to the principles on which the classification adopted by the Government of India is based. Attention should be paid to the correct grouping of articles not separately enumerated.

Government transactions should be kept quite separate in the returns from private trade. In no case should articles imported or exported on account of Government be grouped with imports or exports on private account. They should be shown by themselves under the heading of "Government Stores" and "Government Treasure".

Until the issue of the orders conveyed in the circulars of the 22nd January, some laxity prevailed in regard to the valuation of imports and exports. In the case of articles subject to duty on tariff valuations, these latter, however much they might differ from actual values, were accepted as the real value ; when articles were subject to fixed duty on quantity or weight only, merchants frequently omitted to enter the value altogether ; and in regard to free goods very little attention was paid to the due record of either quantities or values. The Governor General in Council desires to reiterate the absolute necessity of carefully testing figures which form the basis of the trade returns of the Empire. This testing should be continued without relaxation, the provisions of the Customs Act being strictly enforced. In every case importers and exporters of goods of all classes, free or liable to duty, must be compelled to submit a true and correct return of their quantity and actual value, at the wholesale market rate of the day, and the responsibility in this matter of all subordinate officials concerned in the receipt and treatment of bills of entry and shipping bills should be strictly enforced. They should be directed to see that all such documents are duly filled up in accordance with the law

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and the orders of Government before they are passed on to the officers charged with the duty of compiling the statistics of the trade; and these latter should be instructed at once to bring to the notice of the controlling officer of customs any case where omissions or manifestly erroneous entries are detected.

The Commissioner or Collector of Customs at chief ports should also devise such a system as shall ensure the receipt, without fail, by the compilers of statistics, of all papers from the other branches of the Custom-house required for purposes of compilation. It is believed that in some cases no sufficient check exists in regard to this point. It is of primary importance that all the trade of a month should be recorded in that month, and that papers required for the compilation of statistics should not run any risk of being overlooked until after the month's returns have been prepared. In Bombay, where the compilation of export statistics is based on the ships' manifests, it is essential that provision should be made for the receipt of these manifests either prior to the departure of the ship or within 24 hours subsequent to her departure. It is understood that it frequently happens that owners and agents of vessels, though guaranteeing to deliver the manifests within 24 hours, and obtaining clearances on such guarantee, nevertheless fail to file the manifests for periods extending at times to 15 or even 20 days. Should such a practice obtain, it must be rigidly repressed, and no clearance subsequently granted, except after receipt of the manifest, to any agent or owner who has once failed to deliver the manifest according to guarantee.

Where the export statistics are mainly or wholly founded on shipping bills, shippers of goods should be required to send notice to the Custom House at once or within three days, of short shipments and re-lands. The omission to report such short shipments and re-lands in the case of free goods, appears in some Custom-houses to have been a fertile source of inaccuracy in the returns.

For the purposes of the trade returns, all goods shall be considered to be imported from the date on which they are passed over the ship's side, whether they are then entered for bond or pass at once into consumption. In the decision of questions connected with the realization of duty levied on goods, of course the provisions of the Customs Act must apply.

The whole of these instructions apply also to such local publications as the Commercial Annual for Bengal, published at the Calcutta Custom House, and similar papers. All such accounts of trade should be compiled on exactly the same basis as the trade and navigation accounts prepared under the orders of the Government of India. It is very undesirable that two or three separate accounts of the trade of a province should be published almost simultaneously by a Local Government, differing

from each other so radically that it is practically impossible to reconcile the figures contained in one with those contained in the others.

Local Governments and Administrations should give stringent instructions for the regular and punctual submission of a statement of all errors and omissions which may from time to time be detected in the monthly accounts of trade. These statements should be furnished with each monthly return, and should clearly show what corrections are required in the accounts submitted for each of the previous months of the year. If no corrections are to be made, a slip stating this fact should be attached to the monthly return.

It is not intended that Local Governments should discontinue the publication of any tables, which they desire to retain, now included in their volumes and containing information that cannot be given in the forms attached to this Resolution. Such tables are the appendices to the Bombay and Madras volumes, and others of a cognate character. These may still usefully be published,* but they should be kept strictly supplementary, and if it is desired that any such tables should be inserted in the body of the volume they should be properly placed and numbered with supplementary numbers. The numbering of the forms prescribed should on no account be altered, and should any new forms be hereafter considered desirable by Local Governments, they should be submitted for approval by the Government of India before insertion.

Attention should be given to the printing of the annual volumes of Local Governments. At present there are in some volumes numerous errors in the headings of forms and in other portions of the tables. The proofs of all returns should be carefully revised before the issue of the volume, the paging of which should be continuous throughout from the beginning to end.

It is desirable that each of the annual volumes should be prefaced by introductory remarks, explanatory of the fluctuations in the import and export trade from and to each country and in each important article. It should for the present be framed somewhat on the model of the Resolutions of the Government of India, reviewing the results of the trade of British India, as shown in the consolidated volumes for 1872-73 and 1873-74, but in more detail. A copy of the observations which are intended to appear with the annual volume when published, should be furnished to the Government of India separately so as to reach Simla not later than the 1st August in each year, as these will form one important basis for the general review of the trade of the Empire.

* The Government of India directed in paragraph 27 of their Resolution No. 11 C., dated 15th January 1880, (G. R. No. 384, dated 23rd idem), that the appendix printed in the Bombay volume showing the trade and navigation of Sind should not be published in future, as these accounts were already given in the volumes published separately for that Province.

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Great delays frequently occur in the issue of the annual volumes of some Local Governments. Strenuous endeavours should be made to prevent such delays in future. A considerable proportion of the utility of these returns is nullified by the delay in their appearance. Each Local Government should adopt measures to ensure publication within six months after the expiry of the year at latest. (G. I., R., A. & C., No. 66 C.-69 C., dated 9th April 1875, and G. I., F. & C., No. 283 S., dated 12th December 1882; *vide* G. Rs. Nos. 2398, dated 26th April 1875, and 8989, dated 22nd December 1882.)

10. Attention has for some time been directed to the best way in which a reduction in the bulk of the volumes annually published in the several maritime provinces of British India, containing the statistics of trade and navigation, might be effected without sacrificing any portion of their usefulness; and the following curtailment of the information contained in them has been decided upon.

In the tables of the foreign trade, particulars of the trade with different ports in each foreign country need not in future be shown, but only the total trade with each country. Independently of the fact that the adoption of this course will reduce the cost of printing the volumes, it does not appear that the publication of the details of the trade with each port serves any useful end.

Such ports in any Presidency as have had no foreign trade during the year, may be omitted from the tables altogether.

The articles now specified in the tables of the coasting trade are the same as those prescribed for the foreign trade, but there does not appear to be any sufficient reason for having identical lists of articles in equally great detail in the record of both branches of trade. An article may be of importance in the foreign trade and have very little real importance, though the trade may be comparatively large, in the returns of the coasting trade; while, on the other hand, some articles which possess importance in the coasting trade have little or no importance in the foreign trade. In future, therefore, only the articles enumerated in the list* annexed to this Resolution shall be exhibited in the tables of the coasting trade, all others being grouped together and entered under the head "all other articles of merchandise."

The application of an efficient remedy to the inaccuracy which exists in all the provinces, but especially in Bengal and Burma, in the statistics of the coasting or interportal trade, has formed the subject of prolonged correspondence. The Government of India considers that the only efficient remedy will be to provide by law for the return by importers and exporters of accurate information, and to insist upon the responsibility of Customs Officers in rigorously enforcing the provisions of the law. The principal inaccuracies are now found to exist in the returns of shipments, the system in force being such that a merchant taking out a shipping pass for merchandise not subject to duty, is not bound, and does

*Not printed.

not consider it necessary to make a return to the Custom House of the quantity actually shipped, though that may be only half or a third of the quantity entered in the shipping pass, from which the statistics of trade are compiled.

Similar inaccuracies arising out of the same cause exist in the record of the export of non-dutiable goods to foreign ports. As far as regards such trade, provision has been made in the new Sea Customs Act (Sections 137 and 140) under which shippers of goods are bound, under penalty, to make a return to the Custom House of the quantity and value of the goods actually shipped. It will be the duty of all Collectors of Customs to see that the law is strictly enforced. The officer in charge of the Custom House must insist that the duplicate shipping bill shall invariably be returned to the Custom House within five days after the departure of the vessel, with a certificate thereon, signed by the shipper or his authorised agent, of the quantity and value of the goods actually shipped. From this duplicate the necessary amendments in the record should be made. Care must be taken that no original shipping pass shall be put away by the compiling Department as finally done with, until the duplicate has been returned to the Custom House, compared with the original, and needful amendments made. It will be desirable, too, to print in a conspicuous place and in prominent type, on the forms of shipping pass employed in the Custom House, a notice that shippers must return the pass to the Custom House with the endorsement required, after shipment of the goods.

As regards the coasting trade, by Section 156 of the Act the two sections mentioned in the preceding paragraph, which provide for the accurate record of shipments to foreign countries, apply also to this branch of trade. The Local Governments should draw the attention of all officers of Customs to these provisions and instruct them to enforce the law as strictly as in dealing with shippers to foreign ports. Care should also be taken to enforce the responsibility of masters of vessels in the return of manifests, as provided in the Act. The instructions suggested in the preceding paragraph for the guidance of Customs Officers should be held to apply equally to the case of the coasting trade. What the Government of India wants, in fact, is that the measures which under the law will now be taken to secure a correct record of the exports to foreign ports, should be adopted to secure a correct record of the coasting trade where the system of work in Custom-houses is the same for both branches of trade. (G. I., R., A. & C., No. 141-145, dated 14th March 1878; *vide* G. R. No. 1743, dated 5th April 1878.)*

* The classification of articles for the purpose of the returns of the sea-borne trade of India was prescribed by the Government of India,—for the foreign trade in circular No. 412, dated 4th August 1875, for the coasting trade in Resolution No. 141—145, dated 14th March 1878, and for Government stores in circulars Nos. 147—150 and 3368, dated 26th February and 25th October 1879. Revised lists were supplied by the Director General of Statistics with his letter No. 18-M. T., dated 23rd March 1897 (G. R. No. 2786, dated 8th April 1897),

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11. In the Resolution of the Government of India, No. 141-145, dated 14th March 1878, instructions were given for reducing the bulk of the volumes containing statistics of trade and navigation annually published in the several maritime provinces of British India. Further experience shows that additional reductions may be made in these volumes without sacrificing their utility, that in fact the usefulness of the volumes will be increased by compression, and it is accordingly directed that the curtailments noted below may be carried out. As the bulk of the volumes will thus be considerably reduced, it is hoped that they will be issued punctually in future.

Volume I.—Foreign Trade.

In table No. 1A the names of ports with a total trade of less value than two lakhs a year should be omitted. Such ports should be grouped at the end of the table thus: "Total of other ports with an aggregate trade of less than two lakhs each."

Tables Nos. 3A and 4A should also be curtailed in the Madras volume by the omission of names of countries, and of subordinate ports the total imports or exports of which are less than one lakh in value yearly.

In tables 12A and 13A all ports with an export trade of less than one lakh of rupees should be grouped together as directed in table 1A.

In tables Nos. 8, 9, 10, 11, 12 and 13, the Government stores exhibited should be confined to the articles enumerated in the revised list of stores prescribed for adoption in Resolution No. 3368, dated the 25th October 1879.

Tables Nos. 15A and 16A for subordinate ports should be omitted, except in the volume for British Burma where 16A may be retained.

In table No. 18 articles imported on account of Government should be omitted, the table being confined to the dutiable articles of imported merchandise which are allowed free of duty from bond or from Custom-houses for the use of private individuals, institutions, &c.,

In table No. 22 of General Imports, "Other articles" should not be shown in the separate tables Nos. 22—2 and 22—4, but should be entered in the same table and immediately after "Principal articles."

In table No. 22—3 (the quantities of dutiable goods passed for home consumption), only those items should be entered in which the quantities cleared differ from the quantities landed, the heading of the table being—

"Principal articles subject to duty, of which the quantities landed from foreign ports differ from the quantities passed for home consumption."

Table No. 22—3, as well as No. 22—2, and No. 15, should exhibit all the details of the import tariff schedule, besides those of the statistical list A, and in table No. 23—1, cotton goods of Indian

manufacture should be shown in the sub-divisions of the tariff for imported cottons, in accordance with paragraphs 13 and 14 of Resolution No. 1972 of the 30th July 1879.

In the Madras volume tables Nos. 22—1A, 22—2A, 23—1A, and 23—2A (for subordinate ports) should be curtailed by the omission of all ports the total imports or exports of which are less than one lách in value per annum, and by omitting all main heads the total imports or exports of which do not amount to half a lách in value.

In table No. 24 giving details of the trade with each principal foreign country, those articles need not be separately specified the total trade in which for the province does not amount for the aggregate of the items composing the general head of which it is one of the sub-heads to Rs. 10,000 in any of the five years. And the tables should be omitted for any country the total trade with which in merchandise (imports and exports) does not amount in any one of the five years to one lách in value. Government stores should be omitted in this table, and metals should be shown only under the main heads, the sub-divisions of these being omitted. Table No. 24A for subordinate ports should be altogether omitted.

In the tables of shipping engaged in the foreign trade, Nos. 6B, 6C, 7B, 8B, 9B, and 10B for subordinate ports should be omitted.

The instructions for grouping, undistinguished, subordinate ports with a limited trade, in tables 1A, 8A, 9A, 12A and 13A, apply more particularly to the Madras volume. The arrangement need not be carried out in the other provincial volumes, if it effects no material diminution in the number of pages now taken up by those tables.

Volume II.—Coasting Trade.

In the Madras volume only, table No. 1A should be curtailed by the omission of ports the total trade of which does not amount to two láchs a year in value, and tables Nos. 3A and 4A by the omission of subordinate ports in which the imports or exports do not amount to a lách a year in value, and by not entering separately each Indian port not British, the total figures for these ports being sufficient in these tables.

At present tables Nos. 7 and 8 exhibit respectively the quantities and value of imports of Indian goods, Nos. 9 and 10 of imports of foreign goods, Nos. 11 and 12 of exports of Indian goods, and Nos. 13 and 14 of exports of foreign goods. These tables not only give figures for five years, but also show the classes of ports from and to which the imports and exports are made, and are in consequence somewhat bulky.

In future there will be four abstract tables giving figures for five years in the form shown below—No. 7, of quantity and value of imports of Indian goods; No. 8, of imports of foreign goods; No. 9, of exports

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of Indian goods; and No. 10, of exports of foreign goods. As in the abstract tables, Nos. 8 to 13 of volume I of the foreign trade, the table of quantities will be printed on the left page and the table of value on the right page, both tables bearing the same number.

No. 7.

Quantities of the principal articles of Indian produce and manufacture imported coastwise from Indian Ports into the Madras Presidency and its Chief Port in each official year from to

Articles.	INTO MADRAS PRESIDENCY.				INTO CHIEF PORT, MADRAS.			
Animals, living... No.								
Apparel ... Cwt.								
Caoutchouc, raw.								
Chemical products and preparations ...								
and so on ...								

There will also be four general tables with figures for one year—No. 11, of quantity and value of imports of Indian goods; No. 12, of imports of foreign goods; No. 13, of exports of Indian goods; and No. 14 of exports of foreign goods. The general tables will be in the form given below:—

No. 11.

Quantities and Value of the principal articles of Indian produce and manufacture imported coastwise from Indian Ports into the Madras Presidency and its Chief Port in the official year

Articles, and ports from which imported.	MADRAS PRESIDENCY.		CHIEF PORT.		Articles, and ports from which imported.	MADRAS PRESIDENCY.		CHIEF PORT.	
	Quantity.	Value.	Quantity.	Value.		Quantity.	Value.	Quantity.	Value.
Animals, living ... No.									
From Bombay, Chief port .									
" Other ports									
" Bengal, Chief port ...									
" Other ports...									
" Madras, Other ports .									
" Pondicherry ...									
TOTAL ...									

In these tables, Nos. 11 to 14, it will not be necessary, as hitherto, to give a total for each class of ports, one total for all ports being sufficient, as shown in the form. If the trade in any article with any subordinate port is important, the port should be named instead of being included with "other ports," as, for instance, in the Bengal volume in table No. 11, under the article Tea, the trade with the port of Chittagong should be shown separately.

Government stores need not be detailed in these abstract and general tables, Nos. 7 to 14, the totals of the imports and exports of these stores, as shown in tables Nos. 5 and 6, being sufficient.

No tables are required supplementary to the abstract tables Nos. 7, 8, 9, and 10, to show the trade of the subordinate ports. But this trade should be shown in supplementary general tables, Nos. 11A, 12A, 13A, and 14A, in the following form:—

No. 11A.

Quantity and Value of the principal articles of Indian produce and manufacture imported Coastwise from Indian Ports into the Subordinate Ports of the Madras Presidency in the official year

Articles, and ports from which imported.	CALICUT.		COCHIN.				OTHER PORTS.		TOTAL.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Animals, living No.										
From Bombay, Chief port ..										
“ “ Other ports ...										
“ Bengal, Chief port ..										
“ “ Other ports ...										
“ Madras, Other ports ...										
“ Pondicherry										
Total ..										

In the Madras volume, in tables Nos. 11A to 14A, the columns for subordinate ports will extend across the opening of two pages, the trade of as many ports as can be shown in this space being distinguished separately, and the rest being included in the column for “other ports.” The ports named will be entered in the order of their importance as to trade. In the other provincial volumes it will suffice to distinguish separately the trade of as many ports as can be entered on the breadth of one page. The size of page of the Madras volume should be reduced so as to make it correspond with the other local volumes.

Tables Nos. 16—1, 16—2, 16—3, and 16—4, with the corresponding tables A for subordinate ports, are not required and should be omitted in future.

In the tables of shipping engaged in the coasting trade, Nos. 12A to 15A are to be omitted.

In the Bombay volume the appendix showing the trade and navigation of Sind should not be published in future, as these accounts are already given in the volumes published separately for that province. (G. I., F. & C., No. 11 C., dated 15th January 1880; *vide* G. R. No. 384, dated 23rd idem.)

12. In the forms for the annual volume of trade and navigation prescribed for adoption in the Resolution of the Department of Revenue, Agriculture and Commerce, No. 66C.—69C., dated 9th April 1875, “Principal articles” are all articles enumerated in the alphabetical list of articles (A) issued by that Department and “Other articles” are those not enumerated in that list. It is therefore necessary that in the volumes of the annual accounts of trade,

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the tables showing quantities and values of articles should invariably enumerate all the articles entered in list A in which there has been any trade during the year. In the supplementary tables of general imports and exports, Nos 22—2, 22—2A, 22—4, 22—4A, 23—2, 23—2A, 23—4 and 23—4A, should be entered in detail "Other articles," or those not enumerated in list A and in the tables showing the principal articles.

Care should also be taken to enumerate, in all the tables in which countries are shown, all the foreign countries entered in list B issued by the Department of Revenue, Agriculture and Commerce in which there has been any trade during the year, no countries being included under the head "Other countries," except those unenumerated in list B. Tables Nos. 24—1 to 24—3A should also contain a separate table for each country with which there has been any trade (G. I., R., A. & C., No. 161, dated 7th March 1876 ; *vide* G. R. No. 1725, dated 18th idem.)

13. In the trade and navigation accounts when articles are grouped under a major heading, all particulars should be given in detail for each article separately. It is to be understood that none of the articles now separately shown in the monthly or annual returns are to be omitted or grouped with "all other articles", but care should be taken to class them properly in accordance with the prescribed classification.

There is no objection to the retention of tariff values in the accounts kept in the Custom House if the Commissioner thinks their retention would be advantageous for any purpose, but in accounts published for general information only real values should be shown. The exhibition of tariff values is for statistical purposes quite misleading and calculated to produce serious errors. In the table of average prices printed in the annual volume published by the Government of India, for instance, the prices are deduced from the declared real values, which in many cases are tariff values, differing largely from the actual market values. Again, in making comparison between the value of trade in a term of successive years much trouble and confusion are likely to arise, and have in fact arisen, in comparing the values of trade in tariffed articles when the tariff valuations of such articles have undergone alterations during the period of comparison. In such cases, unless allowance is made for increases or decreases in the tariff valuations (which may be overlooked by or unknown to the person examining the figures), the recorded results are misleading. In the returns furnished to the Government of India, therefore, only real values should be shown. (G. I., R., A. & C., No. 195, dated 6th March 1875 ; *vide* G. R. No. 1555, dated 13th idem.)

14. The values entered in the returns of the sea-borne trade of all imported goods subject to duty, whether at tariff rates, or *ad valorem*, or ac-

ording to quantity, should be their wholesale market value when ascertainable, less duty (if dutiable), and trade discount (if any is allowed); and, where such value is not ascertainable, the estimated cost to the importer of the goods laid down at the port of entry (before payment of duty), or, in other words, the wholesale cash price of the goods *in bond*. (G. I., R., A. & C., No. 257-260, dated 22nd May 1877; *vide* G. R. No. 3498, dated 5th June 1877.)

15. In all cases, where feasible, imports, whether liable to duty or not, are to be valued for statistics, and if dutiable *ad valorem* are to be assessed for duty in accordance with the terms of the law as given in Section 30 of Act VIII of 1878.

Recently it was brought to notice that in Calcutta when a person not engaged in trade imports articles for his personal use and produces an invoice, the duty is taken on the invoice value reckoned in Indian currency at the rate of ten rupees to the pound sterling, if the importation is considered to be a private affair and not a trade transaction. In Bombay also it is understood to be the practice in similar cases, including importations by parcel post, to levy the duty on the invoice value increased by 10 per cent. for exchange. Both practices are erroneous, and the ruling stated above should be applied to these as to other cases wherever it is feasible to apply it.

It may be, however, that occasionally it is not considered necessary to question the value entered in the invoice, but on such occasions it should be remembered that due allowance must be made for the rate of exchange. The addition to the invoice value might, in the absence of any objection on the part of the importer, be without any considerable risk of error based on the advertised official rate of exchange for the year, to avoid constant change resulting from fluctuations.

As a general rule invoice values are not to be accepted as a sole guide except in the cases of small personal importations where the good faith of the importer may be reasonably assumed.

These orders apply to both foreign and coasting trade, and the procedure to be observed for the valuation of all dutiable and non-dutiable goods in the foreign and coasting trade should be that herein set forth, that is to say, that duty should not be included in the value. But in the cases of Indian salt and Indian spirit, and any similar cases in future, the values to be recorded, in the coasting trade, should include excise duty, when that duty has already been paid at the place where the article is manufactured or before its shipment by sea. On the same principle, (1) in the case of foreign goods exported or imported coastwise, the duty paid on first importation should not be deducted from the value in the coasting trade returns, and (2) in the case of opium which has been imported by land into British Indian Territory and is then exported coastwise or to foreign countries, the pass-fee which

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was charged on importation by land should not be deducted from the value in the return of exports. (G. I., R., A. & C., No. 122-C., dated 1st May 1879; *vide* G. R. No. 2474, dated 9th idem; and G. I., F. & C., Nos. 4368, dated 10th August 1888, and 105-S., dated 27th March 1889; *vide* G. Rs. Nos. 6391, dated 22nd September 1888 and 2806, dated 13th April 1889.)

16. A not unusual cause of error in the returns of trade is the double entry of goods, first as a portion of the cargo, and secondly in the complete cargo of the vessel. A warning on this head should be given to all Customs Officers at the ports. (G. I., R., A. & C., No. 82-85, dated 22nd January 1875; *vide* G. R. No. 700, dated 4th February 1875.)

17. The import registers of the several Sea Custom-houses of British India should show "Arms, Ammunition and Military Stores" (distinguishing the countries whence they have been imported) in the following detail, *viz* :—

"Arms, Ammunition and Military Stores.

Fire Arms—

Locks	...	...	No. and value.
Do. parts of	...	...	Ditto
Stocks	...	...	Ditto
Barrels	...	...	Ditto
Other sorts	...	...	Ditto
Bayonets and sword bayonets...			Ditto

Ammunition—

Gun flints	...	...	Ditto
Percussion caps	...	...	Ditto
Cartridges	...	...	Ditto
Do. cases	...	...	Ditto
Gunpowder, Common	...	...	Lbs. and value.
Ditto Sporting	...	...	Ditto

All other sorts, including Military Accoutrements, Uniforms, &c., but excluding Military and other Regulation Accoutrements and uniforms imported for private use by persons in the public service.	} Value.
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(G. I., F. D., Nos. 566, dated 30th January, and 78, dated 28th April 1873; *vide* G. Rs. Nos. 748, dated 10th February, and 2748, dated 14th May 1873.)

18. Care should be taken to secure exact correspondence between the special cotton return furnished for publication in the supplement to the *Gazette of India* and the ordinary trade and navigation returns, the fractions of cwts. being treated uniformly by rejecting fractions of half a cwt. and under, and taking those above 56 lbs. as a whole cwt. The instructions given in Resolution No. 66C.-69C., dated 9th April 1875, as to the preparation of all accounts of trade and navigation on the same basis, so as to ensure identity in the final results published by the Government of India and in the several publications of the Local Governments respectively, should be strictly observed. (G. I., R., A. & C., Nos. 327, dated 12th June 1875, and 2, dated 4th January 1876; *vide* G. Rs. Nos. 3592,

dated 25th June 1875, and 482, dated 22nd January 1876.)

19. In the monthly returns and annual tables of the shipping engaged in the coasting trade, native craft are already distinguished, and it is merely necessary in these returns and tables that care should be taken to include under the head "Native craft" only Indian vessels, not square-rigged, sailing under British colours, or belonging to Native States, such as Maldiva and Cutch vessels; other vessels which are not square-rigged, such as Portuguese, Arab, Chinese, Siamese or Mekrani, &c., being shown under their respective nationalities.

In the monthly returns of sailing vessels engaged in the foreign trade, native craft should be shown separately in a column following that for the total of foreign shipping.

In the shipping tables in the local annual volume, native craft have hitherto been distinguished, and this should continue to be done in the volume in the new forms of tables, as explained below

In tables Nos. 1, 1*a*, 6*b* and 6*c*, native craft will be included, undistinguished as such, under the head of sailing vessels.

In the tables Nos. 3, 4, 3*a* and 4*a*, native craft should be separately distinguished against each country, such as Arabia, Ceylon, &c., in the trade with which such craft are employed.

In tables Nos. 5, 5*a*, 6 and 6*a*, native craft should be separately shown in a line after foreign sailing vessels.

In tables Nos. 7, 8, 9 and 10, 7*a*, 8*a*, 9*a* and 10*a*, and 7*b*, 8*b*, 9*b*, and 10*b*, a column showing native craft separately should be inserted after that of "Total foreign;" the grand total being of British, British Indian, and foreign vessels, and native craft. (G. I., R., A. & C., No. 161 C.-164 C., dated 19th July 1876; *vide* G. R. No. 4331, dated 28th *idem*.)

20. It appears that in the import and export trade reports received by the Government of India sufficient explanation is not given in cases of fluctuations of trade. In all such cases the Collector of Customs should explain the causes of the increase and decrease, where this is considerable, in the export or import of each important article of commerce. Thrown into daily contact, as the Collector necessarily is, with the leading members of the European mercantile community, and with the whole body of native traders and dealers, it should always be easy for him, if he properly utilizes the advantages he enjoys, to explain satisfactorily at the close of the year the more important fluctuations in the trade of the port over which he presides, and it should be impressed upon all officers responsible for the realization of customs dues, at each of the ports of British India, that to furnish such explanations constitutes one of the most important branches of their duty. (G. I., R., A. & C., No. 93, dated 15th July 1872; *vide* G. R. No. 3625, dated 26th *idem*.)

21. The trade and navigation returns for the Presidency of Bombay should contain information regarding the trade between Aden and other countries than India, for though Aden is regarded, in connection with commercial statistics, as a foreign port, it is politically and administratively subordinate to the Government of Bombay. (G. I., R., A. & C., No. 605, dated 16th October 1875; *vide* G. R. No. 6959, dated 11th December 1875.)

22. In the Annual Trade and Navigation Returns and Report for Aden the causes of the decrease or increase of trade should be fully stated, and suggestions made for facilitating and encouraging trade. (G. R. No. 5283, dated 8th August 1882.)

23. For statistical purposes it is necessary that the correct quantities and values of goods imported to and exported from Aden should be carefully registered. Under these circumstances, the proposal made by the Resident that copies of the manifests in the case of square-rigged vessels and declarations by the *Nakodás* of native craft should be accepted as sufficient evidence of the quantity and value of goods imported and exported at Aden cannot be adopted. This proposal involves a less accurate (though easier) method of preparing the statistics, but it is desirable that the returns of the trade of Aden should be prepared in such form as to admit of the details being classified under the same headings as the trade of British Indian ports and published, as at present, in the 2nd Volume of the annual statements of the trade and navigation of British India.

In order, however, to afford some relief to the trade registration establishment at Aden, the Governor General in Council has no objection to the figures for one year only, instead of the figures for five years, being given in future in the abstract tables of trade Nos. 1 to 7 and in the abstract tables of shipping Nos. 12, 13 and 14, it being understood that errors discovered or alterations made in the figures after their submission will be duly notified. The returns Nos. 18 and 19 received from Aden giving in detail of ports the imports and exports from and to places on the African and Arabian coasts are not required in the Finance and Commerce Department, and their submission may be discontinued, but it is left to the Government of Bombay to decide whether for local purposes they should be kept up or not. (G. I., F. & C., No. 3934, dated 23rd September 1882; *vide* G. R. No. 7266,* dated 18th October 1882.)

* The Political Resident, Aden, was informed in this Resolution that Returns Nos. 18 and 19 need not be submitted to Government. In his report on the Trade and Navigation Returns of Aden for the year 1882-83 the Political Resident reported that this concession had been taken advantage of, but that Returns Nos. 18 and 19 had been kept up in the Trade Registration Office at Aden, as from them alone could statistics of the trade of surrounding ports be gathered and from a local point of view those returns were of the greatest value.

24. The annual report and returns of the trade and navigation of Aden should be transmitted to the Government of India at the same time as that for the Presidency of Bombay, *i. e.*, not later than 1st August in each year. (G. I., F. & C., No. 151 S., dated 17th September 1883; *vide* G. R. No. 7406, dated 5th October 1883.)

25. The annual statement of the trade and navigation of Sind should be submitted to Government by the 15th September in each year at latest so as to allow of copies being transmitted to the Government of India by the 1st October. (G. R. No. 8255, dated 10th November 1883.)

26. To enable a comparison to be made as early as possible between the figures in the provincial volume of accounts and those in the volume for British India, proof sheets of the following tables of sea-borne trade and navigation should be sent to the Government of India as soon as they are ready in anticipation of the complete volume:—Nos. 15 to 23 of foreign trade, Nos. 2, 7, 8, 9 and 10 of foreign shipping, No. 15 of coasting treasure, and Nos. 12 to 15, 16—1 and 16—2 of coasting shipping. (G. I., R., A. & C., No. 2, dated 5th May 1879; *vide* G. R. No. 2636, dated 19th *idem*.)

27. The records of trade appertaining to the Customs Department in this Presidency should be carefully preserved for at least ten years. The following papers should, however, be preserved for three years only:—

(1) Bills of entry and other documents relating to the passing of goods into town.

(2) Shipping bills, export general manifests and other documents relating to the passing of goods for exportation.

(G. I., R., A. & C., No. 303-306, dated 27th May 1875, and G. I., F., & C., No. 6—S.-G., dated 17th April 1896; *vide* G. Rs. Nos. 3230, dated 8th June 1875, and 5104, dated 30th June 1896.)

28. The Commissioner of Customs and the Commissioner in Sind should cause to be prepared statements, in the following form, of the Customs duty on imports and exports of merchandise exclusive of salt realized month by month, in advance of the trade returns. As it is intended to compile a consolidated statement as early as possible after the close of the month, the Collectors of Customs at Bombay and Karachi should furnish the statements direct to the Government of India by post soon after the close of each month:—

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Total Gross and Net Revenue, exclusive of Salt, in
the Province of _____ in the month of _____ 189 .

GROSS REVENUE ON IMPORTS.	DUTY COLLECTED.
Arms, ammunition, and military stores	
Liquors —	
Spirit	
Other liquors	
Apparel, drapery, &c.	
Chemical products and preparations	
Cotton Manufactures—	
Twist and yarn	
Piece-goods, grey	
" white	
" coloured	
Other goods... ..	
Drugs, medicines and narcotics	
Dyeing and tanning materials	
Glass and glassware	
Hardware and cutlery	
Metals —	
Copper	
Iron and steel	
Silver	
Tin	
Other metals	
Oils, Petroleum	
Paints and colours	
Paper	
Provisions	
Silk, raw and manufactured	
Spices	
Stationery	
Sugar	
Tea	
Umbrellas	
Wood and timber	
Woollen goods	
Imports by post	
All other articles	
Total, Gross Revenue	
Total, Net Revenue*	
EXPORTS.	
Rice and rice-flour	
Gross Revenue	
Net Revenue*	
Grand Total, Gross Revenue	
Grand Total, Net Revenue	

*After deducting refunds and drawbacks,

Collector of Customs.

CUSTOMS HOUSE,

(G. I., R., A. & C., No. C.-71, dated 8th April 1875; *vide* G. R. No. 2224, dated 15th idem, and G. I., F. & C., Nos. 2097, dated 8th August 1879 and 113 S., dated 29th April 1895, to the address of the Commissioner of Customs, Salt, Opium and Abkari and the Collector of Customs, Karachi.)

29. The amount of duty levied on *all* goods on which duty was payable during the month should be entered both in the trade returns and the monthly reports of Customs duty collected irrespective of the amount of duty actually realized in cash during the month, and it should be taken as a strict rule that, so far as the trade accounts are concerned, Government revenue falling due in any month is to be regarded as having been realized during the month and is to be shown accordingly in the trade returns. On no account must there be any discrepancy whatever in future between two sets of trade returns both for the same period and relating to the same subject.

The practice of excluding passengers' baggage from the returns of trade is correct, but the duty collected on such baggage should always be shown in every return which purports to be a statement of the Government Customs revenue, the duty being entered in the trade returns under the head of "all other articles, including penalty duty." All difference between the actual collections of cash and the amount of duty levied may be completely removed if due care be taken to adjust the accounts of duty levied on a deposit or security, by cash payment before the end of the official year, and also by crediting petty customs under their proper heads both in the trade accounts and the cash accounts of revenue collected. Endeavours should be made to secure complete accord between the two sets of figures.

These instructions apply to export as well as to import revenue. The proper plan to follow is to enter in the trade returns the export revenue falling due or levied during a month, as it falls due and is levied on permission being given for the shipment of goods. This plan will ensure agreement between the actual collections of cash as given in the Customs administration report and the actual amount of duty levied on goods passed for shipment, provided that deposit accounts are adjusted before the close of the year by payments of cash.

The Government share of the Customs revenue realized at Cambay should not only be included in the monthly reports of Customs duty collected, but should also appear in the trade returns. (G. I., R., A. & C., Nos. 475, dated 21st September 1876, and 84, dated 29th May 1879; *vide* G. Rs. Nos. 5569, dated 29th September 1876, and 3134, dated 14th June 1879.)

30. All miscellaneous receipts should be excluded from the monthly returns of the Customs revenue furnished to the Government of India and from the

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duty statements of the trade and navigation statistics returns, and only the duty levied in accordance with the Tariff Act should be shown. (G. I., R., A. & C., No. 9, dated 5th January 1878; *vide* G. R. No. 192, dated 14th *idem*.)

31. Arrangements should be made for the transmission to the Government of India, with the trade and navigation statistics returns, of monthly returns of the duties levied in accordance with the provisions of the Tariff Act on goods carried by land across the frontiers of Foreign States on the sea-coast in the Bombay Presidency, in the same detail as the returns of duty realized at the sea-ports which accompany those returns. The total amounts of duty, gross and net, realized on imports and exports separately, should be telegraphed every month to the Government of India along with the amounts realized at the sea-ports (but in a separate item), for publication with those figures in the *Gazette of India*. The figures should also be embodied in a separate table in Part I of the annual volumes of the trade and navigation statistics of the Bombay Presidency. Returns of the trade across the frontiers of the Foreign European and Native territory on the sea-coast in the Bombay Presidency should also be furnished monthly. (G. I., R., A. & C., No. 159, dated 2nd April 1878; *vide* G. R. No. 1977, dated 17th *idem*.)

32. Returns of the duty refunded should also be submitted along with the monthly returns showing the duty levied on the frontiers of the Foreign States on the sea-coast in the Bombay Presidency. (G. I., R., A. & C., No. 531-C., dated 19th November 1878; *vide* G. R. No. 6082, dated 26th *idem*.)

33. Instead of the Returns of Shipping (Nos. 2 and 3) hitherto furnished, two statements in the annexed form should be forwarded as soon after the close of the official year as possible :—

No. 1.

Number and tonnage of steamers and sailing vessels, distinguishing their nationality, which entered and cleared with Cargoes (including their repeated voyages) from and to foreign ports, and British Indian ports in other presidencies and within the Presidency, and from and to Indian ports not British, at the chief port and each subordinate port in the Presidency of _____, in the official year.

Ports at which entered.	ENTERED WITH CARGOES.												CLEARED WITH CARGOES.												Ports from which cleared.
	BRITISH.		BRITISH INDIAN.		FOREIGN.		NATIVE CRAFT.		TOTAL.			BRITISH.		BRITISH INDIAN.		FOREIGN.		NATIVE CRAFT.	TOTAL.						
	Steam.	Sailing.	Steam.	Sailing.	Steam.	Sailing.	Steam.	Sailing.	Steam.	Sailing.	Steam and Sailing.	Steam.	Sailing.	Steam.	Sailing.	Steam.	Sailing.	Sailing.	Steam.	Sailing.	Steam and Sailing.				
	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.	Vessels.	Tons.			
CHIEF PORT. (Name.)																								CHIEF PORT. (Name.) (Details as opposite.) To Foreign ports, etc.	
From Foreign ports																									
From British ports in other Presidencies																									
From British ports within the Presidency																									
From Indian ports not British																									
Total of all ports																									
SUBORDINATE PORTS. (Name.)																									
(Details as above for each Subordinate port.)																									
TOTAL OF SUBORDINATE PORTS. (Details as above.)																									
TOTAL OF ALL PORTS (Details as above.)																									

No. 2.

Number and tonnage of steamers and sailing vessels, distinguishing their nationality, which entered and cleared with ballast (including their repeated voyages) from and to foreign ports, and British Indian ports in other Presidencies and within the Presidency, and from and to Indian ports not British, at the chief port and each Subordinate port in the Presidency of _____, in the official year. (G. I., R., A. & C., No. 250, dated 12th April 1876; vide G. R. No. 2516, dated 25th April 1876.)

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34. The Commissioner of Customs, Bombay, and the Collector of Customs, Karáchi, should forward statements of the number and tonnage of steamers which entered and cleared from and to foreign countries *viá* the Suez Canal at ports in Bombay and Sind respectively as soon after the close of the official year as possible for transmission to the Government of India. (G. I., R., A. & C., No. C.-272, dated 6th September 1876; *vide* G. R. No. 5233, dated 12th *idem*.)

35. The Commissioner of Customs and the Commissioner in Sind should transmit direct to the Government of India as soon after the close of the official year as possible the following returns required for incorporation with the annual statement of the Trade and Navigation of British India:—

(1) Returns of shipping engaged in the foreign and coasting trade at each port.

(2) A return of the number and tonnage of steamers which entered and cleared from and to foreign ports *viá* the Suez Canal.

(3) Returns of the total value of imports and exports of merchandise and treasure at each port. (G. I., R., A. & C., No. 239, dated 21st May 1879; *vide* G. R. No. 2772, dated 27th *idem*.)

36. The simplest and only feasible mode at present of introducing greater accuracy into the shipping accounts of each port is to record at each British Indian port the exact course which a vessel has taken and is about to take, without reference to the destination of the cargo taken on board. For instance—a vessel from Southampton touching at Suez, Aden and Galle on the way, with the bulk of her cargo for Calcutta, touches at Madras, discharges cargo and takes in cargo both for Calcutta and for foreign ports (to be retained on board at Calcutta), comes to Calcutta, receives foreign and Madras cargo and calls again at Madras (homeward bound) discharging cargo from Calcutta, and also taking cargo for foreign ports. The record would be—

(1) at Madras—entered from United Kingdom and cleared to Calcutta;

(2) at Calcutta—entered from Madras and cleared to Madras;

(3) at Madras—entered from Calcutta and cleared to United Kingdom.

At the first British Indian port at which a vessel arrives on her inward voyage, she should be recorded as having entered from the first foreign port from which she cleared. Thus in a vessel arriving at Madras from the United Kingdom, after having touched at Suez, Aden, Galle and Pondicherry, the record should be—entered from the United Kingdom. And in the same way, at the British Indian port from which the vessel clears to foreign ports (including foreign Indian ports), she should be shown as cleared, not to the first foreign port, but to the ultimate destination. Thus in a vessel

clearing from Calcutta for Galle, *via* Madras and Pondicherry, she should be shown at Calcutta as cleared for Madras, and at Madras as cleared for Galle; and in the case of a steamer clearing from Calcutta for Madras, Galle, Aden, Suez and Southampton, and taking cargo also for Penang, China, Melbourne, Venice and Marseilles, she should be shown at Calcutta as having cleared for Madras; and at Madras she should be shown as having cleared for Southampton.

A vessel clearing from one British Indian port to another, and also visiting intermediately a foreign port or a foreign Indian port, should be shown as cleared to the first British Indian port at which she is to call, and at this port she should be shown as entered from the last British Indian port at which she cleared. Thus, if a steamer clear from Calcutta for Madras, Pondicherry, Galle, Vengurla and Bombay, she should be shown at Calcutta as cleared for Madras; at Madras as entered from Calcutta, and cleared for Vengurla; at Vengurla as entered from Madras and cleared for Bombay; and at Bombay as entered from Vengurla.

The foregoing instructions may be summarized as follows:—

In the case of a vessel arriving from	<table border="0"> <tr> <td rowspan="2"> several Foreign ports several British Indian ports British Indian and Foreign ports. </td> <td rowspan="2"> She should be shown as having entered from </td> <td>the first Foreign port.</td> </tr> <tr> <td>the last British Indian port.</td> </tr> </table>	several Foreign ports several British Indian ports British Indian and Foreign ports.	She should be shown as having entered from	the first Foreign port.	the last British Indian port.		
several Foreign ports several British Indian ports British Indian and Foreign ports.	She should be shown as having entered from			the first Foreign port.			
		the last British Indian port.					
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several Foreign ports several British Indian ports Foreign and British Indian ports			She should be shown as having cleared to	the last Foreign port.			
	the first British Indian port.						
the first Foreign port. the last British Indian port. the " " "							
	the last Foreign port. the first British Indian port. the " " "						

(G. I., F. & C., No. 905, dated 1st June 1881; *vide* G. R. No. 3367, dated 11th *idem*.)

37. The Commissioner in Sind and the Commissioner of Customs, Salt, Opium and Abkari should furnish the Finance and Commerce Department of the Government of India with a monthly statement of the quantity in ounces and value in rupees of gold and silver imported into British India, the following details in regard to the description of the metals being given:—

Gold—

- (1) Bullion (bar, ingots, &c.)
- (2) Coin—
 - (a) Sovereigns and half sovereigns.
 - (b) Other coin.

Silver—

- (1) Bullion—
 - (a) Bar.
 - (b) Sycee.
- (2) Coin—
 - (a) Government of India rupees.
 - (b) Other rupees (*e.g.*, German and British East African).
 - (c) Dollars, chopped and unchopped.
 - (d) Other coin.

These statements should be supplementary to the returns of imports and exports of treasure furnished to the Government of India with the monthly accounts of trade and navigation and should accompany those accounts. The conversion of tolas into

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ounces should be made on the uniform basis of 1 tola to $\frac{3}{8}$ ounce. (G. I., F. & C., Nos. Stat.-3443, dated 9th August, and 168 S., dated 14th October 1893; *vide* G. R. No. 6253, dated 29th August 1893, and G. M. No. 7613, dated 18th October 1893.)

38. In the coasting trade and navigation returns the trade with the Andaman and Nicobar Islands should be classed as trade with the Bengal Presidency. (G. I., R., A. & C., No. C.-307, dated 22nd September 1876; *vide* G. R. No. 5521, dated 27th *idem*.)

39. Trade with the ports of His Highness the Gáekwár, the Thákur of Bhávnagar and the Naváb of Cambay which have been declared to be British Indian ports for certain specified purposes under the Customs Act, should be recorded in the trade returns under the head of "Indian Ports not British" according to their locality as is done in the case of all other ports. Thus trade with those ports which are situated in Káthiáwár should be entered (undistinguished) under Káthiáwár and new heads should be opened in the returns for Cambay and for the two ports belonging to the Gáekwár which are not situated in Káthiáwár. The headings in the returns for foreign (native) ports in the Bombay Presidency will then be as follow:—

Cutch.
Káthiáwár.
Foreign Konkan.
Cambay.*
Gáekwár's Territory.

(G. I., F. & C., Nos. 2547, dated 30th August 1879, and 138 C., dated 24th December 1879; *vide* G. Rs. Nos. 6272, dated 24th November 1879, and 51, dated 6th January 1880.)

40. Trade with the foreign ports of the States of Travancore and Cochin should be classed under the head "Indian Ports not British" as in the case of trade with ports belonging to the Native States of Cutch and Káthiáwár. Trade with the port of Cochin, which is British and not foreign, should be classed as trade with the Madras Presidency. (G. I., R., A. & C., No. 263, dated 22nd May 1877; *vide* G. R. No. 3530, dated 6th June 1877.)

41. Trade carried on with the ports of the Native States of Cochin and Travancore which, by the Notification of the Government of India, No. 1131, dated 30th June 1865, have been declared to be British Indian ports for certain specified purposes under the Customs Act, should be recorded as trade with 'Indian Ports not British.' (G. I., F. & C.,

* By the Notification of Government of India, No. 2559, dated 1st August 1884, republished at p. 577 of the *Bombay Government Gazette* of 6th *idem* under Government Notification No. 6706, dated 20th *idem*, all goods imported from, or exported to, the port of Cambay into or from any Customs port in British India, are to be treated, as regards the levy of Customs duties and the payment of drawbacks under the Sea Customs' Act, 1878, as goods imported from or exported to a Customs port, as the case may be.

No. 2811, dated 16th September 1880; *vide* G. R. No. 5070, dated 25th *idem*.)

42. The trade with Mozambique and that with Zanzibar should be separately shown in the monthly and annual returns of trade and navigation statistics prepared in Bombay and Sind. (G. I., R., A. & C., No. 492, dated 8th December 1877; *vide* G. R. No. 36, dated 3rd January 1878.)

43. In the monthly and annual returns of vessels built and first registered at each port which are prepared under the Government of India's orders contained in their circulars No. 78-81, dated 22nd January 1875, and No. 66C.-69C., dated 9th April 1875, all vessels whether registered under the English Merchant Shipping Act or under any of the Indian Acts should be shown. (G. I., R., A. & C., No. 74C., dated 9th May 1877; *vide* G. R. No. 3162, dated 17th *idem*.)

44. Registrars of Shipping at the several ports in the Bombay Presidency should furnish the Registrar General of Shipping in London with annual returns of all vessels locally registered in India. These returns should be forwarded at the same time and in the same form as the annual returns of vessels imperially registered are sent. It is not intended that the return to be rendered to the Registrar General should include the vessels registered under Bombay Act XIX of 1838. It should embrace only vessels registered under the India Act X of 1841, and the British Merchant Shipping Act of 1854, and should include all such vessels on the register up to 31st December. (G. I., F. & C., Nos. 137, dated 12th April, and 4246, dated 17th October 1882; *vide* G. Rs., Marine Department, Nos. 245, dated 5th May, and 532, dated 15th November 1882.)

45. Previous to the imposition, in 1875, of duty on salted fish imported into the Bombay Presidency, all the imports of salted and of sun-dried fish were recorded together in the trade returns, and since then the imports of salted fish alone were returned separately by the Collector of Salt Revenue, Bombay, while those of sun-dried fish were grouped undistinguished under the head 'Provisions.' The Government of India in the Revenue, Agriculture and Commerce Department observed that this change had the inconvenient effect of making accurate comparison and verification of the results of the tax impossible, that it should not have been made without intimation to that Department, and that no change of this kind should in future be made without being previously reported to that Department. (G. I., R., A. & C., No. 88, dated 17th June 1879; *vide* G. R. No. 3448, dated 1st July 1879.)

46. Changes in the record of statistics introduced by Collectors of Customs in a single province must produce error in the Indian statistics of trade and vitiate comparisons with the statistics of previous years or of other provinces or countries. Col-

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lectors of Customs should therefore under no circumstances make any change in the record without previous reference to and sanction from the Government of India in the Finance and Commerce Department. (G. I., F. & C., No. 295 S., dated 31st October 1887; *vide* G. R. No. 7802, dated 14th November 1887.)

47. As a general rule the Departments which land and ship stores are unable at the time of import or export to furnish the Custom House with a detailed description of the stores and their quantity and value. All that they need be required to do at this time is to give the number of packages, a general description of the goods, the name of the vessel conveying the stores, and the port from or to which they have been imported or are to be exported. These particulars should be entered by the Customs Department in a register, for the purpose of securing subsequently the complete details needed for the trade accounts.

These details should be furnished to the Customs Department, as early as practicable, in a monthly statement of the stores landed and shipped by or for each Department of Government. In Calcutta such statements are at present sent to the Collector of Customs by the Examiner of Medical Accounts and by the Commissariat Department; and in Bombay the Accountant General furnishes the Customs Department with the accounts of stores imported. Heads of all Departments importing and exporting stores should furnish the monthly statements promptly to the Collector of Customs, whose duty it will be to bring to notice any failure to supply the details required. Ordinarily the returns for any month ought to be furnished within a week after the expiry of the month. In the case of articles received from England, the receipt of the invoice from the Store Department will have to be awaited. It has been explained by the Director General of Stores at the India Office that he is unable to prepare the invoices early enough for them to reach India as soon as the stores, but that they are sent with the greatest possible expedition. (G. I., F. & C., No. 3368, dated 25th October 1879; *vide* G. R. No. 5910, dated 5th November 1879.)

48. In the provincial trade reports figures should not be rounded, and conversion from one denomination to another should be made at the exact number of pounds which a maund represents in each case. (G. I., F. & C., No. 895, dated 10th June 1881; *vide* G. R. No. 3665, dated 25th *idem*.)

49. Dutiable articles of foreign merchandise first imported on payment of duty, subsequently exported without refund or drawback of duty being allowed, and again imported without payment of duty should at the time of such re-importation be shown in the monthly trade return No. 10-1 and in the annual table No. 22-1 of free imports with a foot-note explaining why they have been admitted

free of duty. They should also be shown in the monthly return No. 18-1, and the corresponding annual table No. 18 of articles allowed free for the use of private individuals, institutions, &c. (G. I., F. & C., No. 3664, dated 19th October 1881; *vide* G. R. No. 6489, dated 31st idem.)

50. In the monthly and annual accounts of the Trade and Navigation of British India the total value of the merchandise and treasure imported and exported *via* the Suez Canal is exhibited, but it is very desirable that the value of the trade with each country passing through the Canal should be shown in these accounts separately from the trade carried by other routes, as for example, round the Cape of Good Hope.

The additional statistics will appear only in the Imperial volume for British India and the tables in the Provincial volumes of the trade and shipping *via* the Suez Canal will remain unchanged.

Annual returns, however, will be required of the trade and shipping of the Bombay Presidency and of the Province of Sind with each foreign country *via* the Canal, for use in preparing the tables for the whole of British India. The Commissioner in Sind, the Commissioner of Customs, Salt, Opium and A'bkári, and the Political Resident, Aden, should transmit the returns direct to the Government of India so as to reach that Government by 1st June. (G. I., F. & C., Nos. 4898, dated 13th November 1882, and 63-S., dated 9th May 1884; *vide* G. Rs. Nos. 602, dated 24th January 1883, 4048, dated 20th May 1884, and 5005, dated 21st June 1884.)

51. In the monthly trade return No. 15 showing the gross amount of import duty collected on each article, the amount of duty collected on salt, salted fish, opium and spirits imported from foreign ports should be shown separately from the amounts collected on imports coastwise.

The same distinction should be made in the monthly trade return No. 17, in which the drawbacks paid and duty refunded should be shown separately for each of the articles above-named when imported from foreign ports and when imported coastwise.

The distinction should also be carried out in the corresponding tables of the annual statement of trade and navigation Nos. 15, 15A and 17. (G. I., R., A. & C., Nos. 188-C., dated 28th July 1876, and 496-C., dated 11th November 1878; *vide* G. Rs. Nos. 4495, dated 7th August 1876, and 5927, dated 18th November 1878.)

52. A diversity of practice exists in regard to the inclusion in returns Nos. 15 and 16 in the Provincial Annual Volumes of trade and navigation of figures of duty collected on passengers' baggage. In the volumes for Bengal and the Bombay Presidency the figures are entered separately against the heading 'Passengers' Baggage'; while in those for

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the Madras Presidency, Sind and British Burma the figures are apparently distributed among the articles in the body of the returns.

This latter practice will be adopted in future in the consolidated statements prepared by the Government of India, and should also be followed in the compilation of the Provincial Annual Volumes.

These instructions apply also to the figures of duty collected at Cambay, Bilimora and Navsári. (G. I., F. & C., No. 62-S., dated 13th February 1885; *vide* G. R., No. 1794, dated 2nd March 1885.)

53. In the monthly returns of Customs duty Nos. 15 and 16 the figures of duty realized on passengers' baggage should be distributed among the respective articles in the body of the returns. (G. I., F. & C., No. 95-S., dated 24th March 1894, to the Commissioner of Customs, Salt, Opium, and A'bkári.)

54. The monthly trade return No. 17, showing the description and value of goods on which drawbacks have been paid, or duties have been refunded, should exhibit separately the articles imported and those exported, the total amount of drawbacks and refunds being shown for imports, and the total amount of refunds for exports.

The table No. 17 of Part I (Foreign Trade) of the forms prescribed for the annual volume should also show separately the articles of import and export. (G. I., R., A. & C., No. C.-9, dated 25th April 1876; *vide* G. R. No. 2843, dated 11th May 1876.)

55. The articles* noted below should be invariably entered in the monthly trade return No. 18 of the new series (showing the quantities of certain principal articles of imported merchandise remaining in bond). It will of course be discretionary with the Customs authorities to enter in this return, in addition to the articles now prescribed, any other articles which it has hitherto been the practice to enter in the corresponding return No. 15 of the old series, or which may at any time seem to be of sufficient importance to require insertion:—

Cotton—			
Twist and Yarn	...	...	... lb.
Piece goods—			
Grey	...	...	... yds.
White	...	...	... ”
Coloured and printed or dyed	...	...	... ”
Thread	...	...	... lbs.
Canvas	...	...	... yds.
Liquors—			
Ale, beer, and porter	...	...	... gals.
Spirit.	{	Brandy	... ”
		Rum	... ”
		Liquors	... ”
		Other sorts	... ”
Wines	...	...	... ”

* The list of articles as here given has been reproduced from the "Collection of orders of the Government of India relating to the registration of the Maritime Trade of India, 1897."

Metals—			
Brass	...	...	... cwts.
Copper	...	...	... "
Iron	...	...	... "
Lead	...	...	... "
Steel	...	...	... "
Tin	...	...	... "
Zinc or spelter	...	...	... "
Salt	...	...	... tons.
Silk, raw	...	...	... lbs.
Silk, manufactures of—			
Piece goods	...	...	... yds.
Sugar	...	...	... lbs.
Wool, manufactures of—			
Piece goods	...	...	... yds.

(G. I., R., A. & C., No. 375, dated 10th July 1875; *vide* G. R. No. 4173, dated 23rd idem.)

56. A heading for articles exported by post similar to the head "articles imported by post" should be opened in the monthly and annual trade returns.

In the case of exports there being a difficulty in making the required distinction between articles of Foreign and those of Indian origin, the Government of Bombay proposed that the required distinction be made by assuming that all articles exported by post, except those which on the face of the declarations appeared to have been produced in Europe, were of Indian production or manufacture. This method would no doubt give results wanting in accuracy, but the error would be of no appreciable importance, and as the error of leaving out these exports altogether was important, the Government of India intimated that it had no objection to the adoption of the method proposed by the Government of Bombay. (G. I., F. & C., No. 78-S., dated 26th February 1885; *vide* G. R. No. 2380, dated 20th March 1885.)

57. Considering the very insignificant proportion which imports and exports of bullion and coin by foreign parcel post bear to the total imports and exports of these articles, it is unnecessary and would be inexpedient to insist on the weight being given in the Post Office invoices. For post parcels sufficiently accurate figures can be ascertained by calculating for silver one tola of weight for every rupee of declared value and for gold one tola of weight for every Rs. 20 to Rs. 22 of declared value according to the current price of gold. This plan may not give absolutely accurate weights, but the weights will be approximately correct, and considering the insignificance of the traffic by parcel post it seems better to be content with approximately accurate weight than to increase the details to be filled up by the public in declarations accompanying post parcels. (G. R. No. 850, dated 5th February 1887.)

58. All stores imported for the Rájputána-Málwa State Railway should, like the stores imported for the East Indian Railway, be entered in the monthly and annual trade and navigation returns and state-

ments, as Government stores. A foot-note should be attached to the tables of Government stores stating how much of the total value of the imports represents the value of stores or the Rájputána-Málwa Railway. (G. I., F. & C., No. 48-S., dated 16th February 1888; *vide* G. R. No. 1519, dated 5th March 1888.)

59. There is no objection to the figures of the imports of spirit being recorded, for purposes of the Customs Department, in the denomination of 'proof spirit gallons,' but in the statistical returns of trade furnished to the Government of India in the Department of Finance and Commerce or published locally the record should be made invariably in the denomination of 'liquid gallons.' (G. I., F. & C., No. 196-S., dated 12th July 1888; *vide* G. R. No. 5018, dated 27th *idem*.)

60. As cotton seed, which forms a portion of the export of seeds classed as "other sorts" in the monthly returns of sea-borne trade, is an export of considerable importance from other countries, it is expedient to note the quantities of it exported from India. The Customs authorities should accordingly distinguish cotton seed separately in the returns. (G. I., F. & C., No. 5628, dated 15th October 1888; *vide* G. R. No. 7405, dated 7th November 1888.)

61. The particular attention of all Customs officers is called to the necessity of verifying the declarations of importers and exporters and of enforcing the law where the declarations are found to be seriously inaccurate. The Government of India, agreeing with Her Majesty's Secretary of State, attaches great importance to the maintenance of accuracy in the declarations which form the basis of the statistics of trade. (G. I., F. & C., No. 4591, dated 6th November 1891; *vide* G. R. No. 8213, dated 30th *idem*.)

E.—MISCELLANEOUS.

1. It is of more importance to stimulate and develop the production of articles already known in the country, such for instance as the ground-nut (*Arachis hypogæa*), than to initiate costly experiments in articles not commercially known and of which the ultimate success is problematical. (G. I., R., A. & C., Nos. 514C.-524 C., dated 2nd November 1877; *vide* G. R. No. 6836, dated 14th *idem*.)

2. The request of the Secretary of State that arrangements may be made for the transmission to the India Office, for publication in the journal of the Board of Trade, of information regarding tariffs and trade which may be of interest to merchants and manufacturers in England, should be complied with as fully and as promptly as possible. It will be convenient that all information intended for publication in the journal should be sent in the first instance to the Government of India in the Department of Finance and Commerce, by which it will be transmitted periodically to the India Office.

The Department of Finance and Commerce will contribute statistics and reports upon the external trade, sea-borne and land, and the shipping of India, and also information in regard to changes in the customs and excise duties.

The other Departments will contribute papers on all matters of interest connected with—

- (a) *Home Department.*—The operation of the laws regulating patents, patterns and designs, and copyrights.
- (b) *Foreign Department.*—Reports, so far as they are not confidential, from the officers of that Department and Consuls and Consular Agents touching trade in the Persian Gulf, Persia, Muscat, Kábul, Káshmir, Ladakh and other places.
- (c) *Public Works Department.*—Opening of new lengths of railway, projects for construction of new lines, linking of through communication with sea-ports, opening of important bridges, and material changes in rates for transport of merchandise on any large line.
- (d) *Revenue and Agricultural Department.*—Statistics and reports, whether periodical or special, compiled in that Department concerning internal trade or agricultural and economic products, and any meteorological reports which from a commercial point of view are of interest or value.

Each Local Government and Administration is also requested to co-operate by furnishing the Department of Finance and Commerce with papers of interest bearing on the trade and industry of the province,

It is not necessary to print any of the papers that may thus be sent to the Department of Finance and Commerce unless it is decided for other reasons to print them. Nor is it necessary to furnish the information in any special shape, as it has been ascertained that all papers sent from India will be edited before publication. (G. I., F. & C., No. 4834, dated 10th September 1887; *vide* G. R. No. 6915, dated 11th October 1887.)

3. Reports relating to the opening of new lengths of railway and other matters of interest dealt with in the Public Works Department required for communication to the editor of the Journal of the Board of Trade should not be furnished periodically, but as soon as possible after the occurrence of the event to which they relate, as they are intended for publication in a monthly journal. (G. I., F. & C., No. 340-S., dated 20th December 1887; *vide* G. R. No. 252, dated 13th January 1888.)

4. As a rule the information forwarded from India for incorporation in the Board of Trade Journal is limited to reports of railway extension; but the several authorities concerned should be reminded of the expediency of transmitting items of intelligence

connected with Indian trade and industry which would be of general interest to the mercantile community in the West. (S. of S., No. 53, dated 6th August 1891; *vide* G. R. No. 6572, dated 24th September 1891.)

5. It would hardly be possible for the Board of Trade to precisely define the kind of data required for publication in its journal, as the nature and description of the information supplied must necessarily depend, in great measure, upon the requirements and condition of the various districts of India.

It must, therefore, be left in great measure to the discretion of the Departmental authorities to report upon such subjects as may be calculated to advance the commercial and industrial interests of the United Kingdom and British India. At the same time, as copies of the Board of Trade Journal have probably been seen by the heads of the various Departments of the Indian Government, these gentlemen would be able to see for themselves the nature of the information relating to foreign countries which has been considered most suitable for publication; and this might, to some extent, assist them in their choice of subjects upon which reports might be prepared for insertion in the Journal.

Subject to these observations the following are, in the opinion of the Board of Trade, a few of the more important subjects to which enquiries might from time to time be directed, with a view to the preparation of reports, which the Board would be glad to receive as frequently as possible—

1. All Customs Tariff changes, both actual and projected.
2. Notices of new processes of manufacture.
3. Establishment of new industries.
4. Notice of condition of crops.
5. Increase or decrease of employment of labour.
6. Notices of exceptional state of manufactures.

As regards the form in which the data should be supplied, copies of any official reports on commercial and financial subjects should, without waiting to be edited, be *at once* sent to the Commercial Department of the Board of Trade, where they will be prepared for publication in the Journal, as it is essential that the information which is contained in this publication should appear as soon as possible after the period to which it refers. (G. I., F. & C., No. 2164, dated 25th April 1888; *vide* G. R. No. 3321, dated 23rd May 1888.)

6. Communications connected with the compilation of internal land trade statistics should be addressed to the Government of India in the Department of Revenue and Agriculture. (G. I., F. & C., No. 3209, dated 22nd August 1882; *vide* G. R. No. 6144, dated 7th September 1882.)

7. Resolutions of Government on the subject of inland trade returns should be embodied in the

abstracts of proceedings of the Revenue Department designated "Lands, &c." (G. R. No. 3757, dated 30th May 1890.)

Copies—

12 N. Western Railway.
 12 Madras Railway.
 12 B. and N. Western Railway.
 12 S. M. Railway.
 1 S. I. Railway.
 12 E. Bengal State Railway.
 12 E. I. Railway.
 12 I. M. Railway.
 12 G. I. P. Railway.
 12 B. B. & O. I. Railway.
 6 Postal Guides.

8. The Examiner of Guaranteed Railway Accounts, Bombay, is authorized to purchase every half-year the Railway and Postal Guides noted in the margin for the use of the offices in which the statistics of rail-borne traffic are compiled, provided the cost is paid from his contingent grant. (G. R. No. 9920, dated 17th December 1892.)

TREES.

PART I.—RIGHTS TO TREES IN OCCUPIED AND WASTE LANDS.

1. Rule No. 11 attached to paragraph 84 of the Joint Report, which requires occupants of survey numbers to obtain the permission of the Mámlatdár before they can cut down a tree, being calculated to destroy the feeling of right of property in trees and so deter rayats from preserving them, the said rule is cancelled in all Collectorates where it may be in force. (G. C. No. 734, dated 27th February 1866.)

2. The foregoing circular was not applicable to Thána because the rule of the Joint Report which it cancelled was not in force in that district; but nevertheless had any similar rule been in force it would have been the duty of the Revenue Commissioner to cancel it.

The rules regarding the disposal of the right to trees in occupied lands prescribed by the Revenue Commissioner, N. D., on 13th October 1862, distinctly provided the means of getting rid of the Government rights in trees growing on rayats' lands, and there is nothing in those rules to justify constant interference and enquiry, by the necessity for a rayat to obtain permission to cut down trees growing on his own land.

The late Mr. Gordon appears to have made such a rule for a different object—the protection of the Government forests. In villages close to Government forests the rule may be expedient equally for the protection of the rayat from the liability to have his wood seized on suspicion, as for the prevention of plunder of Government forests.

But, except in the immediate proximity of the reserved forests, there are no valid reasons for continuing the rule, and, except in such situations, it should forthwith be abrogated.

(G. R. No. 2097, dated 27th May 1868.)

3. The orders contained in Government Circular No. 734, dated 27th February 1866, do not apply to lands the chief value of which consists in the timber growing in them, and which are given in cultivation on the express understanding that the right of Government with respect to teak, blackwood and other valuable trees is reserved, because they do not annul the special reservation, but they are applicable to all lands containing valuable trees, which have been purchased by the occupant, and all ordinary lands which contain trees of no special value. The purchase of the right of occupancy should be held to include the value of any trees that may be growing in the number, an upset price being fixed in cases where trees of value are found to exist. (G. R. No. 3667, dated 12th October 1866.)

4. Any mirasdár, or occupant of land under the survey rules, is entitled, without applying for permission, to cut down the common jungle trees which are his own property, even though he reside in a village in which the right of cutting teak and

valuable trees has been specially reserved. (G. R. No. 625, dated 17th February 1868.)

5. When rights on teak trees in Government land *have been* parted with, the fact should be noted in the village register. Care should be taken that the entries in the registers are not made without due confirmation by the Assistant Collector, for such entries will bar the rights of Government, and there is great temptation to make them fraudulently. A statement of the fields in which Government have parted with their rights should be prepared, showing the amount paid for the trees, and when the whole has been confirmed by the Assistant Collector, entries may be made. (G. R. No. 3480, dated 10th July 1878.)

6. What was actually reserved under Section 40 of the Survey Act depends not upon survey rules but upon the terms of the notification of settlement issued at the time of each settlement in the form of Appendix A to those rules. It would be necessary, therefore, to refer to these notifications in order to see what trees Government reserved their rights in, in the different *tálukas* of the Thána District.

But Section 40 of the Survey Act authorizes the reservation only of such rights in trees as Government possess. If Government have no rights there is nothing to reserve. Road-side trees planted and reared by the holders of the land in which they stand belong in every case to the landholder, unless perhaps in the rare instance of such trees being teak or blackwood trees. If the trees were there before the landholder's occupancy or that of his predecessor in title, if any, began, then perhaps the right to them may be claimed by Government, but every thing depends upon the orders and rules which have from time to time been issued in each *táluka*.

The only way to prevent such road-side trees being cut down is to apply the provisions of the Land Acquisition Act for the acquisition for public purposes either of the trees, or of both the trees and the land on which they stand. (L. R. No. 704, dated 25th June 1879; *vide* G. R. No. 3495, dated 3rd July 1879.)

7. The following 14 trees should be reserved in the Panch Maháls not only at the survey but in anticipation of the survey :—

1 Teak.	6 Mhowra.	11 Jámbul.
2 Blackwood.	7 Kullum.	12 Tamarind.
3 Bhia.	8 Haldarwa.	13 Hirda.
4 Rohan.	9 Mango.	14 Dháura.
5 Ebony.	10 Ryan.	

All other trees may *for the present* be left to the people for *boná fide* domestic purposes, but not for sale. It will be the duty of the Collector and the Forest Officer to see that this concession is not abused and to apply for sanction to add other trees to the reserved trees wherever the progress of cultivation and population threatens to denude the country of trees.

It is not intended by including mango, mhowra, ryan, hirda, dháura and other fruit trees in the reserved list to interfere with the right of the Bhils to collect the fruit and flowers of these trees in the manner to which they have been accustomed.

(G. R. No. 3203, dated 21st June 1880.)

8. The Collector of the Panch Maháls should jealously preserve the right of Government not only to the 14 kinds of trees which are reserved by Government Resolution No. 3203, dated 21st June 1880, but to *all* trees in Government waste land where they are in sufficient numbers to make it profitable to take up the land under the survey rules in order to secure the trees. Where this is the case they will be at once cut down and sold to the railway for firewood and the land will then be relinquished. The Collector should take care to prevent this abuse. (G. R. No. 1542, dated 16th March 1881.)

9. In the Panch Maháls the trees reserved by notification at the time of the survey were those in Rule 91 under the Land Revenue Code, the specifically reserved trees being teak, blackwood and sandalwood only.

Resolution No. 3203, dated June 21st, 1880, can, therefore, apply only to numbers which were waste on that date. This Resolution declared fourteen kinds of trees to be reserved. Resolution No. 5932, dated 22nd July 1884, removed mango, ryan, jambul and tamarind from the list of reserved trees. The question was then raised on the forest demarcation report of Kálol whether any trees were to be reserved on the disforested waste lands. The question would appear to have been already settled by Resolution No. 3203, dated June 21st, 1880, and this is the purport of Resolution No. 4502, dated June 4th, 1885, which directed that in the Kálol disforested lands the trees specified in Resolution No. 3203 should be reserved. The Resolution also re-included mango, ryan, jambul and tamarind in the reserved trees. The Resolution referred only to those lands while unoccupied, and in July 1885 the Commissioner, N.D., wrote :—“In unoccupied lands the usufruct of these trees has been allowed to the people by the orders of 1880 (Resolution No. 3203, paragraph 3) and the trees may remain reserved.” This, therefore, may be the rule.

Next as to the disposal of the reserved trees whether on numbers given in occupation since June 21st, 1880, or hereafter to be given. In regard to the former, the Commissioner, N. D., wrote :—“In lands granted for cultivation subsequent to the survey, the value of all trees except teak and blackwood is realized under ordinary practice.” It is not quite clear if this has been done on the numbers in question. If it has, then the teak and blackwood only; if it has not, then all the reserved trees not yet sold to the occupant should be treated as is laid down in Government Resolution No. 3906, dated

May 22nd, 1883, paragraph 4. With regard to waste numbers hereafter to be given for cultivation, all the instructions necessary for the disposal of the reserved trees are contained in Rules 94 and 95 under the Land Revenue Code.

As long as the lands remain unoccupied waste, the reserved trees are to be considered to be at the disposal of the Forest Department and the proceeds should be credited to the Forest Revenue.

(G. R. No. 7256, dated 8th September 1885.)

10. As to trees, other than the specially reserved kinds, growing on the banks of rivers or nálas touching or running through occupied numbers, the following orders have been laid down :—

(1) If the trees grow in land included in an occupied survey number, they belong to the occupant. If they grow in the dry beds of streams which are not included within the boundaries of such a number, they are to be treated as Government property, unless and until the occupant can establish his claim to them.

(2) In cases where the boundaries of a field are not laid down on the banks of a stream, the area of the field as recorded in the survey registers should be taken as the guide in determining how far the right of the occupant extends. The occupant should be allowed the benefit of the trees on the area recorded, all beyond it being held to be the property of Government subject to the provisions of the Land Revenue Code regarding alluvion.

(G. R. No. 649, dated 30th June 1882.)

11. The decree of the District Judge in the suit

In the District Court of Thána,
Suit No. 14 of 1879.
The Secretary of State for India in
Council Plaintiff,
vs.
Tiimbak Balvant and others ... Defendants.
Claim—Rs. 33-12-0.

noted in the margin,
which was in favour
of Government, was
confirmed by the
High Court. The
result of this suit is
that Government

have established their right to hold the occupants of lands in the Kolába District, which were given out at a reduced assessment for purposes of grazing or of *dalhi* cultivation only, and with an express reservation of the trees, strictly to the terms of their leases. (L. R. No. 793, dated 14th June 1883; *vide* G. R. No. 4769, dated 25th *idem*.)

12. Except as provided in the last paragraph of Rule 91 of the rules under Section 214 of the Land Revenue Code, there is no legal objection to Government's reserving under Rule 92 any trees whatever in any lands to which the first mentioned rule applies, *i.e.*, to lands in villages or portions of villages of which the original survey settlement shall be completed after the passing of the Land Revenue Code. (*Vide* paragraph 2 of Section 40 of that Code, to which reference is made in Rule 91.)

But trees in occupied lands over which the rights of Government have already been conceded or sold

cannot in any case be again reserved unless the owner reconveys them first of all to Government. (L. R. No. 801, dated 15th June 1883; *vide* G. R. No. 4391 dated 29th idem.)

13. As the demarcation and settlement of forests is now well advanced it is expedient, as a general rule, that the sale of the reserved trees to the occupants should follow on the completion of the settlement. The mode of disposing of the trees which would be most profitable and favourable to Government would be to sell them by public auction, and even if an outsider bought a tree growing on another person's land, he would have to clear it away within a stated time, and the owner of the land would be the owner of the roots and stool from which poles would spring or shoot. But, as the desire of Government is to give the occupant the trees at a moderate upset price, the Forest Department should sell the trees at an all round price of Re. 1 per tree, which would be a very fair and by no means prohibitive price, considering that the trees would fetch very much more if sold by auction. Government trees in numbers which have been registered for future inclusion in forest should not be disposed of, and the Collector has full discretion not to grant the right of occupancy of numbers which contain valuable trees.

It should, however, be brought to the notice of the Forest Department that, in lands of which survey settlement was completed after the 21st January 1865, the date on which Bombay Act I of 1865 became law, the right of Government to teak, blackwood and sandalwood trees must be held to have been conceded wherever Joint Rule No. 10 was in force, unless it can be shown that such right was reserved by Government or by a survey officer

- (a) by express order made at or about the time of the settlement :
- (b) under a rule or general order in force at the time of the settlement :
- (c) by notification made or published at, or any time after, such settlement :

If occupants in land settled before 1865 now claim concessions, these claims will have to be considered on their merits, and should be sent up to Government for decision.

Every effort should be made to dispose, as speedily as possible, of Government trees standing in occupied numbers.

(G. Rs. Nos. 3906, dated 22nd May 1883, 4537, dated 15th June 1883, 17537, dated 25th October 1890, and 6852, dated 6th October 1891.)

14. Sandalwood trees standing in occupied numbers should be cut and sold departmentally, instead of being given to the occupants at a uniform price of one rupee. The Conservator is at liberty to exercise his discretion in deciding whether to cut and remove the trees through departmental agency or to sell the trees as they stand by public auction

requiring the purchasers to cut and remove them within a reasonable period.

2. When an occupant declines to purchase all the reserved trees, other than sandalwood, on his land at an all-round rate of one rupee per tree, the trees should be sold by auction. He cannot be permitted to select some at the all-round rate and to refuse to buy the remainder.

3. These orders apply only to lands occupied for agricultural purposes, and not to the compounds of bungalows, the owners of which may grow what trees they choose without any claim on behalf of Government.

(G. Rs. Nos. 895, dated 2nd February 1895, and 2113, dated 24th March 1898.)

15. With a view to check the smuggling of sandalwood on the Dhárwár-Mysore frontier it is directed that mutual intimation of permission accorded to fell or remove sandal trees in or over the frontiers be given. Whenever permits for the removal of sandalwood are granted, the fact should be intimated to the officers concerned by the simultaneous transmission of duplicates to the amildárs of the frontier talukas of Mysore so that the latter may be enabled to give prompt information to the Forest Rangers and patels of the neighbouring villages. (G. R. No. 3340, dated 3rd May 1897.)

16. The right to the teak aftergrowth in occupied varkas in the Thána District should be reserved to Government in all cases except the few in which it has already been expressly granted to the occupants. But the aftergrowth should be managed by the Revenue Department for the agricultural and domestic uses of the occupants, and the aftergrowth of teak on communal varkas should similarly be managed for the benefit of the villagers generally.

2. In all cases under the above orders in which teak is sold standing, whether to occupants or to others, it should be made an express condition of the sale that the trees must be removed by a certain date fixed by the Forest Department, all trees in the survey number after that date remaining the property of Government whether felled or standing.

(G. Rs. Nos. 7114, dated 27th September 1897, and 460, dated 20th January 1898.)

17. The Commissioners should keep in view the subject of the disposal of royalty trees in occupied lands outside forest demarcation limits in accordance with the foregoing instructions, and ascertain by periodical reports from the Collectors that it has not been lost sight of. (G. R. No. 348, dated 15th January 1890.)

18. Copies of the following Government letter No. 4008, dated 19th May 1884, and the reply of the Remembrancer of Legal Affairs thereto were forwarded to the Commissioner, N. D., the Conservator of Forests, N. C., and the Collector of Thána for information and guidance :—

"I am directed to forward for the favour of your opinion on the question raised therein the accompanying papers with the proceedings on the subject, and to communicate the following observations of His Excellency the Governor in Council on the several points discussed in the papers.

"2. In the first place the question arises whether the Superintendent of Survey, if he did what the Collector assumes, was authorized to make concessions of the right to cut trees in forest or waste lands. It seems to His Excellency the Governor in Council that the Survey Department is concerned only with the concession of rights to trees as an incident of *occupancy*.

"3. The next question is whether if Major Waddington made any distinct concession, it was ratified by Government. Reference is made among the papers to paragraph 9 of Government Resolution No. 3183 of September 5th, 1866, as an authority for the concession, but in the opinion of His Excellency the Governor in Council this paragraph refers to paragraphs 3-5 of Major Francis' report No. 429 of June 27th, 1866, which deals obviously with trees in *rayats' holdings*.

"4. His Excellency the Governor in Council further considers that even if such a privilege as is supposed on lands now in protected forest were tacitly recognised by Government in 1866, it was clearly only as a revocable privilege, for the trees in such land are confessedly the property of Government. No right of prescription accrues against Government, and Government are entitled to make such lands protected forest and prohibit the cutting of any class of trees therein.

"5. Again, as there were no Imperial Reserves in Kolvan and Dáhanu in 1866, it would appear to be a reasonable construction of the words 'lands set aside as Imperial Forests' that they mean 'lands which may from time to time be set aside.'

"6. As in forming an opinion on the legal aspect of the position taken up by the Collector and Commissioner you may require information on two points, viz.:

- '1. Whether any concession was made as supposed with regard to forest and waste land,
- '2. Whether any land other than forest and waste land was notified under Section 34 in 1879.'

"7. I am to direct your attention as regards the first point to a report by the late Mr. Cordeaux (*vide* preamble of Government Resolution No. 1573, dated 8th March 1882) in which is quoted the following extract taken from the survey settlement notification of the Dáhanu Táluka:—

'The varkas land not having been measured until now, the cultivators used to take for the cultivation of their fields ráb and táhal (materi-

al for ash manure) free of assessment. These lands have been measured at the time of the survey and assessment fixed on them, and the names of those who used to take ráb and tahal from those lands have been entered in the records. *From the jungles of these numbers* the persons in whose names they are entered are at liberty to cut for their subsistence, that is to say for field and household use, all trees with the exception of teak, blackwood and tivas, but nobody has been given authority to act according to Section 40 of the Act or to trade in wood.'

"8. The passage above quoted would appear to show the exact extent of the concession which Government meant to convey to occupants under the Kolvan and Dáhánu settlements, and it will be seen from the following passage quoted from Major Waddington's subsequent report on the Dáhánu Táluka that the latter officer himself did not mean to convey the sense put by the Commissioner and Collector on paragraph 8 of his report on the Kolvan Táluka :—

'There is one important subject in which I have to request the orders of Government in connection with this district, namely, whether the right of the people to fell timber on ráb lands should not be restricted to cutting fuel for domestic use, and wood for their houses and agricultural implements. At the time of the settlement of the Kolvan Táluka, the Survey Commissioner, Northern Division, the late Mr. Gordon, then Collector of Thána, and myself, were so strongly impressed with the necessity of checking the wholesale destruction of timber which was then going on, that we took on ourselves the responsibility of forbidding the felling of timber in málki numbers for any purposes besides those enumerated above, and *our proceedings were sanctioned by Government Resolution No. 3183, dated 5th September 1866.*

'In a district so well wooded as that under report, and which is traversed throughout its length by the B. B. & C. I. Railway, I deemed it of the utmost importance to guard against the destruction of timber, and after consultation with the Survey Commissioner, Northern Division, *I made the same restriction applicable in this táluka as had been imposed in Kolvan.*

"In paragraph 6 of their Resolution No. 2775, dated 11th June 1870, Government approved of these proposals. It is thus clear that the survey settlement went no further than that it allowed to the rayats certain rights to trees in occupied holdings, and that it was never meant to concede to the people any right of cutting wood in protected forest or other waste land.

"9. As regards the second question, the following passage occurs in a letter from the Collector of Thána with which he submitted the notifications regarding reserved and protected forests in that district :

' For protected forests we have taken the remainder of the unoccupied unassessed area and included also assessed kuran land. This area comprises 2nd class reserves demarcated by special officers and set aside by the Survey Department as well as land entered in the village registers as 'Gurcharan', 'Ran Rakshan Gurcharan' (forest in which free grazing is allowed), 'Parigh' (unassessed waste land), 'Khajan' (salt marsh land), so much as has not been taken up for reclamation, and kuran, assessed and unassessed.'

" It will thus be seen that no occupied land was included in the area notified as protected forest in 1879."

(G. L. No. 4008, dated 19th May 1884.)

"I have the honour to reply to Government letter No. 4008, dated 19th May 1884.

"2. The question raised in the correspondence sent to me and herewith returned is whether under the Kolvan and Dáhánu survey settlements a right to cut timber for domestic or agricultural purposes was conceded to any person other than the occupants of land and their inferior holders and whether the concession extended beyond the limits of occupied lands.

"3. In reporting on the settlement introduced by him into the Kolvan Táluka (now the Vádá and Sháhápur tálukas) Major Waddington, Superintendent of Survey, wrote as follows (*vide* paragraphs 7 and 8 of his report No. 558 of 20th December 1865, Government Selection No. 96, page 416):—

'7. At the time of settlement I set aside the forest reserves in such villages as my local knowledge enabled me to do so; but boundary marks have to be erected, and in those portions of the táluka with which I was not personally acquainted, the Imperial Forest numbers have to be marked off.

'8. The people were informed that they were at liberty to cut fire-wood and timber for their farming implements and dwellings in any lands except those set aside as Imperial Forests. Teak, blackwood, tivas, and bambu (the people, however, being allowed to cut the latter for domestic purposes) were everywhere reserved to the State. No wood of any kind is to be exported or sold for export.'

"4. Colonel Francis, the Survey Commissioner, when submitting the above report to Government with his memorandum No. 429 of 27th

June 1866, entered into more detail. Referring to paragraph 8 of Major Waddington's report he wrote as follows (Government Selection No. 96, pages 424-5):

'3. Before introducing the settlement, the Superintendent and the undersigned conferred with the Collector (the late Mr. Gordon) as to the expediency of excepting this district from the application of the rules in the

Paragraph 8. Revenue Commissioner's Circular* respecting trees in rayats' holdings. It appeared to us that as the lands claimed and marked off as the rayats' rāb holdings contained larger quantities of timber in many cases, it would not be advisable to give over the property in trees unreservedly to the occupant, as enjoined in the rules. It was arranged, therefore, that for agricultural or domestic purposes he should have the free use of any wood in his holding, but that he was restricted from cutting it for purposes of sale.

'4. In a jungle country where the rāb lands are generally interspersed with the forest tracts, as is particularly the case in this district, a departure from the rule seems to be advisable and the arrangement entered into appears to meet the circumstances of the case, for the cultivators will retain their rights in trees on 'rāb' lands, which, as heretofore enjoyed, have been confined to requirements for domestic and agricultural purposes whilst the property in the wood will remain at the disposal of the State.

'5. The cultivators of some villages objected to this arrangement, on the ground that it deprived them of the privilege of selling the wood of their holdings, as enjoyed in the adjoining district of Bhiwndi. It appeared on inquiry that in some cases they had already agreed with wood merchants, on the supposition of the Revenue Commissioner's order being applied, for the sale of wood from their rāb land, for considerable sums. The district would thus have been denuded of wood in a few years; whereas the plan proposed, whilst prohibiting its sale for export, is calculated to preserve a supply of it, without depriving the rayats of the rights hitherto exercised in respect to wood. For these reasons, the Survey Commissioner would beg to recommend that the entire taluka be excepted from the circular order alluded to, and managed under the special arrangements herein explained.'

"5. The order passed by Government upon this correspondence was as follows (*vide* Government Resolution No. 3183 of 5th September 1866, paragraph 9 (Government Selection No. 96, page 433):—

'9. The suggestion for excepting the district, for the present, from the operation of the rules which were sanctioned in Resolution No. 1106, dated March 26, 1864, is approved. Ample liberty seems to have been given to the rayats respecting the cutting of timber by the arrangements of Major Waddington, which do not deprive them of the rights exercised heretofore in respect of wood.'

"6. The rules to which reference was made related to 'free grants of wood for agricultural and special purposes.' The Revenue Commissioner's Circular No. 2000 of 17th July 1863 was issued by him to the Collectors of his own division only. It prescribed the purposes for which and the extent to which they should give timber belonging to Government free of charge and laid down that 'the grants were to be made from any collection of timber that may be available' and that when no depôt was available, 'the applicants should be allowed permits or passes to cut on their account such trees as may have been marked for cutting, the forest establishment being responsible that the privilege is not abused.' Government in their Resolution No. 1106 of 26th March 1864, paragraph 6, directed that these rules should 'be generally adopted, the wood thus granted being cut from the reserved kinds of timber in the village reserves.'

"7. I find it difficult to think that Colonel Francis was aware of the exact scope of the rules he referred to in the margin when he penned the paragraphs of his report quoted above (paragraph 4). It is probable that he meant to refer to the rules contained in the Revenue Commissioner's Circular No. 2545 of 13th October 1862 and not to his other Circular No. 2000 of 17th July 1863. The effect of the order of Government passed upon his recommendation was that in the Kolvan Táluka no free grants were to be made by the Collector from the 'village reserves,' because 'ample liberty had been given to the rayats respecting the cutting of timber by the arrangements of Major Waddington.' So far as regards occupants and their inferior holders this was quite reasonable; but if free grants from village reserves were necessary in tálukas in which all trees except a few reserved ones were given over unrestrictedly to the rayats, it seems to follow that the same grants ought *á fortiori* to have been allowed in a táluka in which the rayats were only granted very restricted rights over the trees in their holdings, and in which non-agriculturists therefore could obtain nothing. This apparently illogical result is, I think, due to Colonel Francis having quoted, as above suggested, the wrong circular in his report to Government.

"8. From Colonel Francis' account of the conference between Major Waddington and the Collector and himself it seems that 'Major

Waddington's arrangements' were not intended to do more than limit the right of rayats to trees growing in the lands in their respective occupation, by providing that 'for agricultural or domestic purposes the occupant should have the free use of any wood in his holding, but that he was restricted from cutting it for purposes of sale,' and that 'the property in the wood' should remain 'at the disposal of the State.'

"9. Major Waddington's own statement is that 'the people were informed that they were at liberty to cut firewood and timber for their farming implements and dwellings in any lands except those set aside as Imperial forests.' In using the word 'people,' I do not think Major Waddington meant anybody but the rayats, *i.e.*, the occupants of lands to which his settlement extended. With other people he, as Superintendent of Survey, had no concern, and it does not appear that he had any authority to deal with or make any concessions to any people but such occupants. Government also in their Resolution above quoted referred only to the liberty which had been given by Major Waddington's arrangements to 'the rayats' and therefore cannot be deemed to have sanctioned any concessions to other people. But Major Waddington's words also contain another wide expression. He says liberty was given to cut firewood and timber 'in any lands except those set aside as Imperial forests.' He had in the previous paragraph explained that he had himself set aside forest reserves in such villages as his local knowledge enabled him to do so, but that in those portions of the taluka with which he was not personally acquainted, the Imperial forest numbers had still to be marked off. It is evident, therefore, that when he made use of the expression 'lands except those set aside as Imperial forest,' he contemplated some lands being so set aside after the time when he was writing. He meant in fact 'lands not already set aside, or which may not hereafter be set aside as Imperial forests.' Although therefore it may be true, as stated in paragraph 16 of the Conservator Northern Division's No. 2157 of 26th April 1884 that "there had been no demarcation of forest lands into Imperial and village reserves" in the Kolvan Taluka at the time Major Waddington wrote, I take it that his meaning was that the liberty which he had conceded was not to extend to any land which might be required for Imperial forests in the sense in which he understood that term. The lands which, Colonel Francis said, 'were claimed and marked off as the rayats' rāb-holdings' were, presumably, quite distinct from the land held by Major Waddington to be available for Imperial forests, so that when he spoke of 'lands except those set aside as Imperial forests,' he, probably, was speaking loosely and meant only to indicate rayats' rāb-holdings already in occupation

or available for occupation. If, however, it be held, as I think it must be held, that Major Waddington conceded the liberty of cutting firewood and timber to occupants only and to each occupant within his own holding only, the vagueness of his language in specifying the lands to which his concession applied is immaterial because *ex in termini* the concession could not apply to any but occupied lands.

"10. The announcements or 'instructions' which Major Waddington actually made on the introduction of the survey settlement in the Kolván Táluka were, however, reduced by him into writing, and a copy of the same was sent by him on the 10th April 1867 to the Mámlatdár of Váda. According to the translation furnished to Government by the Collector with his memorandum No. 5102 of 24th August 1883 those 'instructions' contained the following passages :

'3. No one has any authority to use in any way such numbers as have been set aside by Government for forest and other purposes. Any one doing so will be liable to punishment under Section 33 of the Act.

'4. It has been the practice to use free of assessment varkas land which had not hitherto been measured for ráb and tahal used for cultivation of your fields. This land at the time of the measurement, has been marked off into numbers and assessed. The numbers have been entered in the records in the names of the persons who were in the habit of using them for ráb and tahal. Excepting teak, blackwood and building timber, which Government shall direct to be reserved in these numbers, the rest out of the forests the occupants having the numbers in their names are at liberty, under Section 40 of the Act, to cut for tahal and for subsistence, *i.e.*, to cut firewood for agricultural and domestic purposes, but no one has any authority to cut and sell trees or trade in them.'

'7. Limits of *ran rakshan* numbers (reserved forest numbers) will in time to come be demarcated when, should it appear necessary to include in those reserved numbers any of the numbers now standing in occupants' names, Government have reserved the right of doing so.'

"These extracts appear to me fully to bear out the interpretation which I place upon Major Waddington's report No. 558 of 21st December 1865 (*supra* paragraph 3) and to show that the rights which were conceded by that officer, with the subsequent rectification of Government, extended only to occupied lands and to the holders of those lands.

"11. This view is still further confirmed by Major Waddington's remarks upon the Kolvan settlement in paragraph 15 of his report, No. 474

of 14th October 1868, on the introduction of the survey settlement into the Dáhánu Táluka. He wrote :

'15. There is one important subject on which I have to request the orders of Government in connection with this district, namely, whether the right of the people to fell timber on 'ráb' lands should not be restricted to cutting fuel for domestic use, and wood for their houses and agricultural implements. At the time of the settlement of the Kolvan Táluka, the Survey Commissioner, Northern Division, the late Mr. Gordon, then Collector of Thána, and myself, were so strongly impressed with the necessity of checking the wholesale destruction of timber which was then going on, that we took on ourselves the responsibility of forbidding the felling of timber in málki numbers for any purposes other than those enumerated above, and our proceedings were sanctioned by Government Resolution No. 3183 of 5th September 1866.

'In a district so well wooded as that under report, and which is traversed throughout its length by the Bombay Baroda and Central India Railway, I deemed it of the most importance to guard against the destruction of timber, and after consultation with the Survey Commissioner, Northern Division, I made the same restrictions applicable in this district as had been imposed in Kolvan.'

"12. The First Assistant Collector, Mr. Trevor, was averse to the extensive reservation of Government rights over trees in occupied numbers in force in Kolvan and now proposed by Major Waddington for Dáhánu, and communicated his opinion to the Collector. But the Collector, Mr. J. W. Robertson, supported the views of the Survey Department. I extract the following passages from his letter No. 13 of 7th January 1869 to the Revenue Commissioner, Northern Division:—

'7. In paragraph 15 Major Waddington urges the advisability of protecting the forest produce on 'málki lands' and restricting the cutting of timber by the rayats to cutting fuel for domestic use, and wood for their houses and agricultural implements. Mr. Trevor is entirely opposed to any such restriction, and advocates the right of felling all timber unreservedly, except the valuable kinds such as teak, blackwood, &c., being granted, and in support of his opinion urges that any such restriction is opposed to the spirit of the rules laid down by Government on the subject.

'8. * * * * The right of Government to reserve all produce, or to hand it over, excepting particular kinds, has at all times been acknowledged, and it no way follows that, because in many instances it has foregone its rights in

certain districts over such produce on máłki numbers it is *á fortiori* bound to act in a like spirit in districts which pre-eminently, in every sense of the word, may be said to be forest districts. That such is the case as regards the district under report, nothing more conclusively shows than that of the area under cultivation, which as stated amounts to only 103,297 acres in an area of 470 square miles.

'9. I therefore cannot concur with Mr. Trevor that Government should be actuated by one rule alike for all districts. * * * *
In the instance under notice the cultivator is allowed to fell timber for domestic purposes such as firewood, &c., for building his house and for agricultural implement purposes; beyond this, unless it be for barter and sale, I can hardly see what more rights he can desire, as the above must fully and amply meet all his wants in every form and shape.'

"13. The Survey Commissioner, Colonel Francis, forwarded this correspondence to Government with his letter No. 437 of 12th May 1869 and made the following observations and recommendations:—

'6. I agree entirely with the Collector in his view of the Superintendent's plan of not conceding to the cultivators of this district the right of sale in the wood in occupied lands, and think it expedient that their usufruct of it should, as proposed, be confined to the requirements for ráb, agricultural and fuel purposes. They have hitherto held the varkas lands on these terms, and no one has ever claimed the right of cutting wood for the express purpose of exporting it for sale. Moreover, the varkas rate has not been fixed so as to cover the value of the existing supply of wood, but made low, on the contrary, on the consideration of the land being held on the conditions mentioned above.

'7. In the Kolvan Táluka a similar rule was adopted in respect to the property of trees in occupied lands.

* * * * *

'8. The plan works well in Kolvan, where it has been productive of the best results, and I strongly recommend its adoption in the district now reported on.'

"14. In paragraph 6 of their Resolution No. 2775, dated 11th June 1870, Government approved of the restrictions which had been imposed in the Dáhánu Táluka on the cutting of wood. 'The rayats,' they said, 'will be allowed the utmost freedom in supplying themselves with all they require for their own domestic and agricultural purposes, but they will not be permitted to turn wood-dealers.'

"15. These quotations show that the restrictions and concessions extended to the Dáhánu

Táluka were precisely the same as were previously extended to the Kolvan Táluka. There is no indication in them of any intention of applying the concessions to any persons other than the occupants of land or of extending those concessions to any land not in occupation. The only document in connection with either of the two settlements from which such an intention is arguable is Major Waddington's report quoted in my paragraph 3, but the other writings of that officer show clearly that he entertained no such intention.

"16. Moreover, as I have already stated, the Survey Department had no concern with any people other than landholders and had no authority, legislative or executive, to bestow any rights over trees in Government waste lands or forests on such people. And as the avowed object of the Survey Department was to *restrict* wood-cutting in these two tálukás it is highly improbable that they would confer rights, unnecessarily, on non-agriculturists.

"17. The announcement made by the Survey Superintendent to the rayats of the Dáhánu Táluka at the time of the introduction of the survey was even more explicit than that made in the Kolvan Táluka. In the translation furnished to Government by the Collector with his memorandum No. 5102, dated 24th August 1883, there is the following paragraph :

'4. Varkas lands not having been measured until now, you used to take therefrom free of assessment ráb and tahal (materials for ash manure) for the cultivation of your fields. These lands have at the survey been marked off into numbers and assessed, and these numbers have been entered in records in the names of those who used to take ráb and tahal therefrom. Persons in whose names the numbers are entered are at liberty to take tahal from the jungles in these numbers, teak, blackwood and tivas excepted, for agricultural purposes and for subsistence, *i.e.*, they are at liberty to cut firewood requisite for agricultural and domestic purposes, but no one has been given permission to act according to Section 40 of the Act or to trade (in wood).'

"18. On a review of the whole of the correspondence and proceedings I am clearly of opinion that no concessions were made in either of the two tálukas in question to any but occupants (including, as was afterwards held by Government, their inferior holders), and that the concessions made to them applied only to the lands within their respective occupancy.

"19. A further question has been raised by the Commissioner as to how far Government should permit their officers to go in preventing the exercise of disputed claims in the forests notified under Section 34 of the Forest Act in

the interval between now and the time when a Forest Settlement Officer will be able to take up the inquiry into rights in those forests. * * * There is nothing in Section 34 of the Forest Act which requires Government to abstain, pending inquiry, from asserting and vindicating their own rights. If the claims are numerous that would be a good reason for appointing a Forest Settlement Officer at the earliest practicable date to inquire into and settle them, but Government are quite justified in preventing waste and destruction being committed by claimants in the meantime. If such claimants are not content to await the investigation of their claims under the Forest Act, the Civil Courts are available to them for the assertion of them at once.

“20. I, of course, do not mean to imply that Government can authoritatively rule that no rights were conceded in forest and waste lands at the introduction of the survey. If rights are claimed before the Forest Settlement Officer, when one is appointed, either in consequence of the concessions made at the time of the Survey Settlement or on any other ground, it will be his duty to inquire into and decide those claims. The views which I submit with regard to the survey settlement are such as may be used before the Forest Settlement Officer or before the appellate authority on behalf of Government for the purpose of refuting claims under that settlement, if any should be brought.”

(L. R. No. 1223, dated 16th September 1884 ; G. R. No. 7800, dated 1st October 1884.)

19. With regard to the Joint Rules, the authors of the joint report wrote :—“ We wish it to be understood that they should be considered applicable only to the Collectorates above the gháts.” There are on record repeated rulings of Government and of high officers of Government that the rules of the joint report were not applied to the Konkan. The Honourable Judges in Pendse’s case observed that “ the understanding of all Revenue Officers and of the Government itself has always been that the survey rules in regard to trees were never made applicable to the Konkan.” In accordance with the advice of the Legal† Remembrancer, it is held that

† The present law as to trees in occupied lands is contained in Section 40 of the Land Revenue Code. The first paragraph of that section applies to villages of which the original survey settlement was completed before the passing of the Code and it divides such villages into two classes, namely, (1) those in which the settlement was completed after the passing of Bombay Act I of 1865, and (2) those in which the settlement was completed before the passing of that Act. In the former, the right of Government to *all* trees in unalienated land is to be deemed to have been conceded to the occupant, except reserved trees ; in the latter, the same rule applies, but the right of Government to teak, blackwood or sandalwood trees is “ not to be deemed to have been conceded, except by clear and express words to that effect.”

2. In carrying out the order contained in Government Resolution No. 3906 of 22nd May 1883, whether in the Kolába or any other district, the officer entrusted with the duty will, therefore,

Rule 10 of the Joint Rules was never legally intro-

have to ascertain whether any trees have been reserved and, in the case of villages of which the survey settlement was completed before the passing of Bombay Act I of 1865, will have to hold that teak, blackwood and sandalwood trees were reserved, unless a clear and express order is forthcoming conceding the right of Government to them.

3. The reservation of trees may have been made (*vide* Section 40 of the Land Revenue Code) either by Government or by a Survey Officer and in one or other of the following ways (*viz.*):—

(1) by express order made at or about the time of the settlement;

(2) under a rule or general order in force at the time of the settlement;

(3) by notification made and published at, or at any time after such settlement.

4. Orders for the reservation of trees made by Captain Francis, Superintendent of Survey, at or about the time of the introduction of the survey into a *táluka*, would come under the first of these heads, if such orders were valid, *i. e.*, if they were not contrary to any rule or order of Government in force at the same time.

5. No. 10* of the Joint Rules was *prima facie* intended to

* "X. Proprietors of *inám*, *judi* and *mirás* lands having possession of the same have the right of cutting down or otherwise disposing of all trees growing therein, and also holders of Government fields of which they have been in uninterrupted occupancy from a period anterior to the age of the trees, or for a period of twenty years, or who have purchased the trees under the provisions of Rule 2."

declare the extent to which rights to trees were conceded by Government to holders of "Government fields;" but it may also be regarded as a rule which falls under the second head specified in paragraph 3, inasmuch as its effect was to reserve the right of Government to all the trees in unalienated land if the holder of the land had not been in uninterrupted occupancy of the land for 20 years, or from a period anterior to the age of the trees, or if he had not purchased the trees under No. 2 of the Joint Rules.

6. There exists a difference of opinion as to the intention of the above Rule 10. Mr. Sinclair and some other officers regard it as having laid down a kind of prescription, so that if at any time after the introduction of the survey into a village, a holder of unalienated land completed 20 years of occupancy of his land, the trees then growing therein became his property. From the information supplied by the Commissioner, C. D., with his memorandum to Government No. 918 of 1st March 1886, it seems that this is the view which has been acted on in the Ahmednagar District. Mr. Cooke says the same of the Sátára District, but, as regards the *tálukas* of that district which have been transferred to the Sholápur District, this is shown by Mr. Loch not to be correct. The latter gentleman states that in these *tálukas* "lists were made at the time of the survey and signed by the Superintendent of the Survey, showing what trees were considered to be private property and what Government property" and that "those then entered as Government property are still considered to belong to Government, though more than twenty years have elapsed." In the Poona, Khándesh and Sholápur Districts, the twenty years in the Joint Rule 10 are stated to have been taken to mean twenty years prior to the passing of the joint rules or prior to the introduction of a survey settlement, which is the view of the intention of the rule supported by the Commissioner, S. D.

7. From the replies received to the Government Circular No. 5070 of 20th December 1865, asking for a statement of the "rules actually in force regarding the right of the occupant to cut trees growing on land held under the survey," it appears that in the districts of Kaládgi, Ahmednagar, Belgaum and Poona, the 20 years' rule was then understood as a prescriptive rule of which occupants could claim the benefit at any time. For the districts of Sátára, Dhárwár and Sholápur the information given in the above replies on this point is not specific.

8. Interpreting the Joint Rule No. 10 judicially, I am of opinion that its intention was to admit an occupant's right to the trees in his holding if he could at any time establish 20

duced into Kolába. (G. R. No. 3998, dated 4th June 1886.)

years' continuous occupancy. I am led to this conclusion by the fact that the joint rules were not rules for the guidance of survey officers when making a survey settlement, but were rules for "the future administration of the survey settlements" (*vide* paragraph 84 of the Joint Report) *i. e.*, for the guidance of the Collector and his subordinates in determining questions of right and of administration after the Survey Department had done its work. Moreover, the provision as to occupancy "from a period anterior to the age of the trees" occurring in the same Rule (No. 10) seems obviously to have been intended to apply to future as well as past occupancy, and there is no distinction made in the applicability of this provision and of the 20 years' provision.

9. Section 40 of Bombay Act I of 1865 did not affect the Joint Rule 10. It merely provided that in settlements made after the passing of that Act permission to occupy land which had been hitherto unoccupied should be deemed to carry with it a concession of the right of Government to all trees growing on that land which were not then specially reserved. This was a modification of Joint Rule No. 2, but did not touch Joint Rule No. 10.

10. In my opinion, therefore, Joint Rule No. 10 is applicable to all lands included in any survey settlement introduced at a time when, and in a district in which, that rule was in force. The rule seems to have been superseded eventually by rules framed under Bombay Act I of 1865. I am not aware of the exact date of its abrogation.

11. But the rule did not, "by clear and express terms to that effect" concede the right of Government to teak, blackwood and sandalwood trees, and therefore, under Section 40 of the Land Revenue Code, it cannot be held to have conceded the Government right to trees of those descriptions in any lands of which the survey settlement was completed before the 21st January 1865, the date on which Bombay Act I of 1865 became law. In lands of which the survey settlement was completed after the above date, the right of Government to teak, blackwood and sandalwood trees must be held to have been conceded wherever the Joint Rule No. 10 was in force, unless it can be shown that such right was reserved in any of the ways specified in paragraph 8.

12. There still remains the much-contested point whether the Joint Rules were or were not introduced into the Konkan. In *Pendse's* case this question was the subject of very careful consideration as regards the Khálápur Petha of the Nasrápur Táluka, the first portion of the Thána District which was surveyed, and the High Court (Melvill and Kemball, JJ.), after stating the evidence *pro.* and *con.* escaped the necessity of coming to any definite conclusion by holding that "either Rule X of the joint rules was not legally introduced at all, or it was introduced subject to a modification made in it by Captain Francis," which would bar the plaintiff's right to "the particular trees which he complained that he had been prohibited from cutting." The Court, however, admitted "that the understanding of all Revenue officers and of the Government itself has always been that the survey rules in regard to trees were never made applicable to the Konkan." In the absence, therefore, of any order of Government extending the Joint Rules to the Kolába District, it will, I think, be the wisest course for Government to hold that they were not, or at any rate that Joint Rule 10 was never legally introduced into that district. No doubt there are several unauthorized proceedings and orders of Captain Francis which tend to the conclusion that he proposed to set the rules or some of them in force, either with or without modification, but unless the point is, in respect of any portion of the district, judicially determined against them, I would not advise Government to admit that they are bound by any of those proceedings or orders.

13. The provision of Section 40 of the Land Revenue Code concerning teak, blackwood and sandalwood trees seems, however, to deprive the question whether Joint Rule No. X was or was not extended to the Konkan of all practical importance as re-

20. There is no doubt that Joint Rule X was applied throughout the Ahmednagar District as constituted in 1850 to such places as had been brought under survey settlement. But in paragraph 11 of the report of the Remembrancer of Legal Affairs circulated with Government Resolution No. 3998, dated 4th June 1886, it was pointed out that the rule did not "by clear and express terms" concede the right of Government to teak, blackwood and sandalwood trees and that, therefore, under Section 40 of the Land Revenue Code it cannot be held to have conceded the Government right to trees of these descriptions in any lands of which the survey settlement was completed before 21st January 1865. That view was by implication accepted by Government 10 years ago and the Governor in Council sees no sufficient reason for now receding from it.

2. As regards Peint, there is manifestly no difficulty. When the first settlement was introduced, the taluka was not British territory at all, but a Native State under British management, and the settlement was not made under the Survey Act. Nor was there any such settlement as that Act implies of other than rice land. In *mál* land no occupancy right was granted. The settlement now proceeding is the first settlement of that land. The Collector reports that in the notifications recently issued when the settlements of some parts of the taluka were introduced, the right to teak as well as to its after-growth was reserved, and this course will be followed when the settlement of the remaining villages is introduced.

3. As regards the question whether after-growth should be reserved, Government are of opinion that when land is given out for cultivation, it is ordinarily desirable that their right in trees should be disposed of at the earliest possible moment. It is inexpedient to maintain trees which are likely to seriously interfere with cultivation and growth of crops, and the maintenance of such rights gives subordinate officers an opportunity of perpetually harassing the occupants. These remarks do not, however, apply

gards lands of which the survey settlement was completed before the passing of Bombay Act I of 1865.

14. Government Resolution No. 1240 of 28th March 1868 conceding trees on dhára land, was restricted by Government Resolution No. 2095 of 27th May 1868 to dhára land in those portions of the Ratnágiri and Kolába Districts to which Dunlop's proclamation of 1824 applied. The original order was passed in consequence of an adverse decision of the District Court of Ratnágiri, which held that dhárekaris have a proprietary right in their lands. Dunlop's proclamation of 1824 admittedly applied to owners of land and, therefore, wherever it was promulgated Government had clearly renounced all future claim to trees on dhára land. But if it be true that dhárekaris, like mirásdárs, are proprietors of their lands, the right to the trees follows the right to the soil, and the trees must be deemed to belong to them, whether Dunlop's proclamation applies to them or not.

(L. R., No. 590, dated 11th May 1886.)

to land such as *varkas* land in Thána and Kolába, which is not occupied for cultivation, but for the supply of manure for crops, and possibly there may be other cases as in Peint referred to below, where it is desirable to retain the right of Government to after-growth. In these circumstances, No. 98-A of the Rules under Section 214 of the Land Revenue Code should not be abrogated. In the case of the Peint Táluka, however, the teak after-growth as well as teak trees now growing should be reserved. The cultivators are of a wild class and for some time to come regular cultivation of the *mál* lands is not likely to prevail. It is understood that in many cases the fields measured off in this rough country include considerable areas of uncultivable land on which teak grows. There is a probability that if the after-growth became the property of the occupants, it would generally be sold for insignificant sums by the illiterate hill-men, and in many cases the lands might be acquired and used by capitalists for the growth of teak, which would then compete with the growth in less accessible forests. The principle that Government should not retain a right in trees so as to interfere with cultivation has little force in this wild tract, where cultivation is for some time to come likely to be spasmodic and irregular. For these reasons Rule 98-A should be amended so as to include the Peint Táluka.

(G. R. No. 4005, dated 19th May 1896.)

21. Under the last paragraph of Rule 98-A, the right of Government to the after-growth of all kinds of trees, except teak, tivas and blackwood, is conceded to the survey occupants in the Peint Táluka. (G. R. No. 2420, dated 27th March 1897.)

22. It is directed with reference to the last clause of No. 98-A of the Rules under Section 214 of the Land Revenue Code that when land in the Ratnágiri District or in the Dindori Táluka of the Násik District is held or hereafter given out for permanent cultivation as distinct from the supply of leaf manure or other materials for cultivation, the sale of trees on land so occupied will include alienation of right to the after-growth, unless the growth of trees on the land is needed for some public purpose. (G. R. No. 5384, dated 19th July 1897.)

23. The Notification No. 202,* dated 9th January 1885, related to the conditions imposed by the survey settlement as to trees in occupied *varkas* in Sanján and Kolvan tálukas. It was found that the notification did not extend to the Umbargaon Petha. But of course any conditions attached to the subsequent grant of occupancy of any *varkas* or other land in Umbargaon under Section 40 of Act I of 1865, and Section 40, Clause 3, of Act V of 1879 should be enforced. (G. R. No. 6567, dated 16th September 1886.)

*This notification has been cancelled by Government Notification No. 2949, dated 26th April 1893, except in so far as it applies to teak, sandalwood, blackwood and tivas.

24. The subjects discussed in the two Government Resolutions mentioned in the margin have under orders from the Government of India been subjected to long and careful reconsideration by this Government and the Government of India, and there has been much correspondence on the various points raised.

Government Resolution No. 2446, dated 8th April 1890.

Government Resolution No. 2447-A., dated 8th April 1890.

In supersession of the orders passed in those Government Resolutions, the Governor in Council is pleased to cancel the whole of Government Resolution No. 2446, dated 8th April 1890, which deals with the disposal of rights to trees in occupied lands in the Kolába District, and to declare that, while Government possesses the right to all royalty trees, *viz.*, teak, blackwood and sandalwood, in all occupied lands in this district, whether such lands are classed as rice, garden, rabi, or varkas, it for the future, as an act of grace and favour, waives that right so far as trees of any kind, whether reserved or unreserved, in occupied rice, garden, and rabi lands are concerned, and occupants will be at liberty to dispose of them as they please. But as regards teak, blackwood and sandalwood in varkas lands, the orders given below concerning such trees in varkas lands in Thána are to be strictly applied in the Kolába District also.

As regards Government Resolution No. 2447-A., dated 8th April 1890, which deals with the right to trees in occupied lands in the Thána District, the Governor in Council is pleased to cancel the whole Government Resolution, and to declare that in all occupied lands, whether classed as rice, garden, rabi, or varkas, in that district, as in Kolába, the right to all royalty trees, *viz.*, teak, blackwood and sandalwood, and in the talukás* coming under the Sanján and Kolvan Settlements tivas, vests in Government.

* Váda, Sháhápur (including Mokháda Petha), Dáhánu (excluding Umbargaon Petha) and part of Máhim.

As, however, it has been represented that it would cause hardship to occupants to enforce in its entirety the right which Government is of opinion it undoubtedly possesses, the Governor in Council is further pleased to rule that, as regards occupied rice, garden, or rabi lands, Government will, as an act of grace and favour, waive its rights to trees, whether reserved or unreserved, standing on such lands, and consequently no objection will be taken to occupants cutting down and disposing of all trees growing in such lands in such manner as they may see fit.

But in varkas lands, the felling of teak, blackwood and sandalwood trees, and tivas where reserved, without the permission of the Collector of the district, is strictly forbidden. The conditions on which such permission may be granted, and the general regulations under which fellings and exportations beyond the limits of the talukas or dis-

tricts concerned will be allowed, will be made known hereafter. As regards unreserved trees, claim should be made to them on varkas or other occupied lands. (G. R. No. 10087, dated 23rd December 1892.)

25. The concession granted in Government Resolution No. 10087, dated 23rd December 1892, applies only to occupants of lands which were outside the category of varkas at the date of the Resolution. Occupants of lands which up to the 22nd December 1892 were classified as varkas, but since that date have been classified as garden, rice or rabi, cannot be held entitled to the concession. This fact should be carefully noted by the Survey Department in the village registers against each survey number, and at the introduction of the rates should be carefully explained to the occupants concerned, who should at the same time be reminded of the orders contained in paragraph 4 of Government Resolution No. 6908 of 26th September 1893. Lists of the numbers, to which the present orders apply, should be sent to the Forest Department, which should be instructed, when carrying out the orders contained in the last-cited Resolution in any taluka, to give precedence to such numbers in disposing of Government trees. (G. R. No. 7276, dated 15th November 1898.)

26. With reference to No. 98-B of the Rules under Section 214 of the Land Revenue Code it is directed that when the teak trees growing in occupied lands lying outside the sanctioned forest demarcation limits of the Haveli, Purandhar and Junnar talukas and the Ambegaon Petha of the Poon District have been sold to the occupants or otherwise disposed of by the Forest Department, the right to the after-growth from the roots or stumps of the trees when cut shall vest in the occupants of the lands concerned and not in Government. (G. R. No. 5134, dated 1st July 1896.)

27. His Excellency the Governor in Council is pleased to declare that the rules prescribed by Government under Section 75 (c) of the Indian Forest Act No. VII of 1878 and the rules made by the Collector of Thana under Section 44 of the Bombay Land Revenue Code, 1879, which were published in Government Notification No. 202,* dated 9th January 1885, at pages 66—71 of the *Bombay Government Gazette* of the 15th idem, Part I, are hereby cancelled, except in so far as they apply to teak, sandalwood, blackwood and tivas. (G. N. No. 2949, dated 26th April 1893.)

* *Vide also Government Notification No. 2345, dated 25th March 1886, published at page 310 of the Bombay Government Gazette of 1st April 1886, Part I.*

28. It is satisfactory to note that the concession of all trees other than royalty trees in the old Kolvan and Sanjan talukas has not as yet resulted in any very reckless clearing. The concession of the small branch wood from coupes, whether utilized for rabi or not, is a useful and valuable one, and from

PART I.]

[TREES.

a forest point of view is unobjectionable if not positively advantageous in minimising risk of fires. Accordingly there is no need to withdraw the privilege anywhere at present. (G. R. No. 8434, dated 17th November 1893.)

* Published at page 1016 of Pt. I. of the B. G. G. of 2nd November 1893.

29. The special orders contemplated in Government Notification* No. 7915, dated 27th October 1893, are those passed in paragraph 2 of Government Resolution No. 6908, dated 26th September 1893, authorizing the Collector to sell *outright*, as under the arrangements in force in Kolába, to the occupants reserved trees growing in occupied lands, except in tracts where they exceed 50 to the acre. It is intended by these orders that the right to the after-growth should be disposed of with the trees at the time of their sale, and no further orders in the matter are necessary. (G. R. No. 8800, dated 26th October 1894.)

30. Government concur in the opinion of the Commissioner, N. D., that the after-growth of teak trees cut in varkas lands in the Thána District where they exceed 50 to the acre belong to Government. (G. R. No. 10198, dated 12th December 1894.)

31. It is the intention of the law to avoid interference with occupied lands as far as possible, and a liberal policy in the matter of trees on such lands is specially expedient in the Kánara District. As the greater part of the district is forest land, which contains much more timber than can be utilized, Government can well afford to leave most trees in occupied land to the occupants.

There appears to be some doubt what trees in occupied lands have been reserved in past settlements, and it is desirable to determine precisely what trees should be held to have been reserved.

Under Section 40 of the Land Revenue Code the right of Government to all trees in unalienated land in villages or portions of villages of which the original survey settlement was completed before the passing of the Act, 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, is deemed to have been conceded to the occupant, this provision not however applying to teak, blackwood or sandalwood trees in the case of any settlement completed before the passing of Bombay Act I of 1865. The permission to occupy land under Bombay Act I of 1865 included the concession of the right to all trees not specially reserved, but by the rules framed under Section 28 of that Act, road-side trees, those on banks of tanks and useful for shade or ornament, teak, blackwood and sandalwood, and fruit trees belonging to Government and not specially assigned were reserved. In the case of villages

of which the original settlement has been completed after the passing of the Land Revenue Code, the right of Government to all trees in unalienated land is deemed to be conceded to the occupant except in so far as the right is reserved by Government, or by any survey officer on behalf of Government, either expressly or generally by notification published at any time previous to the completion of the survey settlement of the district in which the village is situated. No. 91 of the rules under Section 214 of the Code provides that the extent to which the right of trees is conceded will be specified in the notification issued under Rule 89, which is to be published when a survey settlement has received the sanction of Government.

Now it is clear that in the case of all the settlements made in Kánara before 1877, no special reservations were made. In the case of the few settlements made before the passing of Bombay Act I of 1865, therefore, teak, blackwood and sandalwood only can be held to be reserved, and in the case of the settlements between that time and 1877 only the trees of the classes mentioned in No. 3 of the rules under Bombay Act I of 1865 can be held to be reserved. In 1874 the Survey and Settlement Commissioner proposed to reserve all trees in '*hakka*' land, but it is not clear what express reservations were made for some time. A condition is read out at the settlement and a corresponding note made in the "tree list" to the effect that trees in *kushki* and *hakka* land are reserved for Government according to former custom, but as another part of the condition is that the provision of the Revenue Code and the rules will apply, it is clear that this practice is of comparatively late date.

Now a condition made in the manner stated might be interpreted as an order made at or about the time of the settlement, but it appears to be so indefinite as to be of no effect. It does not appear that there was any former custom of reserving trees on occupied land. The permit rules were executive orders regarding grants of wood in Government forest. They could not affect any existing rights in occupied land. "Hakka" land was ordinarily not occupied land in the proper sense of the term. "Hakka" cultivation is similar to "Kumri" cultivation, and land given out for that purpose used ordinarily to be given out for one year only. A person cultivating on such terms has no right to the land or to the trees growing on such land, but if the land is given out on the survey tenure, the case is altered. The term "Kushki" is applied to high dry land, such as that on which cattle sheds are constructed. There seems to have been no custom of treating trees growing on such land differently from trees growing on other occupied land. It is observed that Colonel Anderson intended to reserve trees on "hakka" land, but to declare that such as were not cut and removed by the Forest Department within 12 months should become the property of the occupant. It does not appear that such a declaration was made at the settlements, but

in the circumstances stated no claim should be made on the part of Government to any trees growing on occupied land in surveyed villages which were not reserved by the general rules or by express order at the time of the settlement. Such an order reserving 18 kinds of trees in "hakkal" and "kushki" land appears to have been made for the first time in the settlements of 1881-82.

As regards the reservations to be made at future settlements, no distinction should be drawn between "hakkal," "kushki" and other land. As the survey settlement is introduced, the terms become obsolete. There is no rigid line of distinction between "hakkal" land which has been cleared for regular cultivation and other adjoining land, and there can ordinarily be no right of occupancy in land which has not been cleared for regular cultivation. "Honi" and "matti," which are timber trees of considerable value, should, however, be reserved at future settlements in Kánara, along with the classes of trees specified in No. 91 of the rules under Section 214 of the Land Revenue Code, on all lands in occupation at the time of the settlement. Lands on which trees are growing, but which are not required for forest, may be assessed, and when they are given out for cultivation, all trees of value should be reserved or sold to the person applying for the land.

The Forest Department being the recognized guardians of the Government property in forests and tree-clad lands, all description of trees reserved at the time of the survey settlement, whether in "hakkal" or other lands, should be formally placed in charge of the Forest officers. But it should be understood that such trees should be removed with the least possible delay, it being clearly inequitable that a person paying assessment for land should be prevented from cultivating any part of it by delay in removing Government trees.

(G. R. No. 1518, dated 18th February 1884.)

32. No rule under Section 214 of the Bombay Land Revenue Code can confer powers on Government. The rules themselves are made in the exercise of powers conferred by the Legislature and cannot extend those powers.

Rule 92 is intended only to indicate that the preceding rules are not to be taken as limiting those powers; otherwise it will be *ultra vires*.

The power of reservation as to trees in occupied unalienated lands is defined in Section 40. In villages completely surveyed before the Code was passed, the concessions were declared complete. The section declares that all trees shall be deemed to *have been* conceded except those already reserved before, at or after the original settlement.

With regard to villages not completely surveyed before the Code, reservation was still possible at the *original* survey settlement, and might be made expressly or by general notification before the settlement of the district was completed, but not afterwards.

No reservation of trees in occupied lands, therefore, since the passing of the Bombay Land Revenue Code is possible, except where the survey is being introduced for the first time.

(L. R. No. 837, dated 18th July 1889; *vide* G. R. No. 5637, dated 3rd August 1889.)

33. Sandalwood trees standing in building sites held rent free under the provisions of Section 128 of the Land Revenue Code, would be at the disposal of the holders of such lands, because those sites fall under the definition of "alienated" lands given in Clause 19 of Section 3 of the Land Revenue Code, and, therefore, the reservation of sandalwood provided for by Section 40 of the Code does not apply to them. Sandalwood standing in lands not held rent-free within the limits of the City of Dhárwár would be the property of Government under Section 40 of the Land Revenue Code. (G. R. No. 7097, dated 20th September 1889.)

34. The following rules to regulate the lopping of reserved trees in varkas and cultivated land in the Ratnágiri District have been approved by Government and are to be enforced as far as possible—

I. The following acts are prohibited:—

1. The lopping, pollarding, or injuring in any way, of teak.

2. The lopping of ain and nána trees within ten feet of their summits.

3. The pollarding (*i.e.*, the cutting off of any portion of the leading shoots, or stems) of ain and nána.

4. The lopping off of branches or portions of branches exceeding at the cut end six inches in circumference.

5. The burning of *ráb* or other matter within a distance of eight feet of any reserved tree.

II. Subject to the abovementioned restrictions, it shall be lawful for cultivators to lop reserved trees on their varkas and cultivated lands for the purpose of manuring their own fields, but no such produce obtained free shall be used for barter or sale.

III. Government reserves to itself the right to cancel the above rules and privileges at any time. (G. R. No. 5388, dated 2nd August 1890.)

35. The interpretation to be placed on Rule 98 of the rules under the Land Revenue Code is that Government abandon their claim to any tree growth *after* the sale of the occupancy right, *i.e.*, to trees or saplings which have grown up either for the first time or from the stools or old roots after the occupant has obtained the land. Where teak has been cut by Government on waste lands which are still unoccupied, any new growth which may arise either from the old roots or stumps or entirely separate from those roots or stumps, prior to the sale of the occupancy right of such lands, is the property

of Government. (G. R. No. 4321, dated 30th June 1888.)

36. The following rules* for working Rule 98 of the rules under the Land Revenue Code in the Akola and Sangamner talukas of the Ahmednagar District will be useful for the guidance of officers in framing the register to be prepared under Government Resolution No. 3480, dated 10th July 1878, so far as they can be worked by the existing establishment :—

(1) In every teak village the Mámlatdár shall publish a notice calling upon all occupants claiming teak under the provisions of Rule 98 of the Land Revenue Code to submit their claims within three months of the date of the publication of the notice. The notice shall direct that the following particulars must be stated in the claim :—

(a) Name of claimant.

(b) The survey number in respect of which the claim is made.

(c) The revenue year in which the right to teak was disposed of to the occupant, or in which the teak was cut and removed.

(d) Any particulars that may be known regarding the felling—for instance, whether the whole of the teak in the number was felled or only part, whether the teak was sold to the occupant on payment of fees, whether it was sold by auction for Government, whether it was given as a free grant, or as the case may be.

The notice shall also declare the effect of Rule 2 of these rules and shall direct the claimants to produce with their claims any documentary evidence on which they may rely.

(2) Every claim should state the revenue year in which the disposal or felling took place. But as it would be hard on the claimant to state the precise revenue year in which the disposal or felling took place, he should be limited to one of three years, the records of the year before and after being searched, and if on search being made evidence is not forthcoming on the records of any of these three years, the claim should be rejected.

(3) If no documentary evidence is produced by the claimant, or if the documentary evidence produced by him is insufficient in the Mámlatdár's opinion to establish the claim made, the Mámlatdár shall cause a search to be made in the records of his own office and those of the Range Forest Officer for evidence regarding the alleged disposal or felling. The search shall be limited to the year in which the disposal or felling is alleged to have occurred and to one year before and after.

(4) If no documentary evidence is produced by the claimant, and none is found on search as de-

* Rules 10 and 11 being cancelled by Government Resolution N4005, dated 19th May 1896, have been omitted.

described in the last rule, the claim shall be rejected.

(5) When the three months mentioned in Rule 5 have expired, the Mámíatdár after recording such further evidence as he may think necessary besides the documentary evidence above referred to, shall submit the following statements to the Assistant or Deputy Collector in charge of the táluka :—

I.—Statement of all occupied survey numbers containing teak.

II.—Statement of all occupied numbers included in the sanctioned forest demarcation, for future acquisition, in which the teak belongs to the occupant, under the provisions of Rule 98, Land Revenue Code.

III.—Statement of all occupied numbers not included in the sanctioned forest demarcation in which the teak belongs to the occupant under the provision of Rule 98 of the Land Revenue Code.

IV.—Statement of all occupied numbers included in the sanctioned forest demarcation for future acquisition in which the teak belongs to Government.

V.—Statement of all occupied numbers not included in the sanctioned forest demarcation in which the teak belongs to Government.

(6) In statements 2 to 5 the Mámíatdárs shall briefly record opposite each number, in respect of which a claim has been made to the teak, his reasons for admitting or rejecting the claim.

(7) Should it appear to the Mámíatdár that some of the teak in an occupied number, but not the whole of it, has been authorizedly cut, he shall to the best of his ability apportion the standing crop of teak between the occupant and Government in such manner that the occupant shall be entitled to such a share as will fairly represent the re-shoots resulting from the authorized felling and Government shall be entitled to the rest.

(8) On receipt of the statements described in Rule 5, the Assistant or Deputy Collector shall pass orders confirming, modifying or reversing the findings of the Mámíatdár.

(9) When the statements have been disposed of by the Assistant or Deputy Collector, the Mámíatdár shall furnish all claimants with extracts from statements 2 to 5 showing how their claims have been disposed of, and in case of admitted claims he shall cause the requisite entries to be made in the village registers.

(G. R. No. 242, dated 11th January 1889.)

37. Rule 98-A of the Rules under Section 214 of the Land Revenue Code cannot affect retrospectively the rights of persons who have actually acquired a title to the after-growth under Government

Resolution No. 2505, dated 1st July 1868,* or other orders. (G. R. No. 3462, dated 5th May 1883.)

38. As regards the rights of occupants to trees, the Parántij Táluka, and the Modása Mahál especially, do not offer the same temptation to occupants to cut down their trees as do Sánand and Daskroi. There will always, owing to the nature of the country and the difficulty of communications in Modása, be but little inducement to occupants to cut down their trees for sale for firewood. It is conclusively shown that the present rules have signally failed to preserve trees in that mahál, and that there are great hardships under them to the cultivator in procuring wood for his immediate and pressing wants. It is probable that the concession which is the common practice of the survey settlement will induce the Koli cultivator to give up his shifting method of cultivation; it is shown that the concession has had a beneficial effect throughout the Kaira District; the property is of no great present value to Government and is decreasing in value. In these circumstances His Excellency the Governor in Council is pleased to grant the concession subject to the reservation of teak, sandal and blackwood: in the case of waste numbers the trees should be sold with the occupancy right, and if the number contains valuable trees it should not be sold unless a fair price is offered. Government also agree with the following remarks of the Commissioner, N. D., on this subject as regards the land required for combined village occupation:—

“The only possible solution, therefore, seems to be to go on giving out the land required for the combined village cultivation without charging occupancy price and with reservation of the right to trees. No other land should be given in occupancy unless a fair price is paid for the trees with the occupancy. Wherever wild and thriftless tribes have to be coaxed into cultivation, the tree question must present difficulties, but the reservations necessary in the case of such people tend to discourage a better class of settlers.”

(G. R. No. 3964, dated 6th May 1892.)

39. The following opinions of the Honourable the Advocate General taken on the two points noted below with regard to the rights of persons to trees in Government waste lands were communicated to all officers concerned for guidance:—

(1) whether enjoyment of the produce of trees on Government waste land by custom or under a lax system of administration amounts to a recognition by Government of a right which the Forest Department must respect;

(2) whether the exception in Section 41 of the Land Revenue Code in favour of private rights extends to lands set apart for forest reserves under Section 38.

* This Resolution endorsed the view expressed by the Conservator of Forests in his letter No. 475, dated 7th May 1868, that when Government had felled all the original crops of teak and blackwood in a rayat's field, they could have no claim to a second growth which might spring up from the old roots and stumps.

"It is a maxim of the Law that *quicquid plantatur solo, solo cedit*, and consequently whatever is affixed to or planted in the soil becomes subject to the same rights of property as the soil itself.

"Therefore if a man plants a tree in Government land the tree so planted becomes the property of Government as much as the soil itself, and the planter has no right thereto or to the branches or produce thereof.

"A claim to enjoy the produce of trees on Government waste land is what is legally termed a claim to a profit *a prendre in alieno solo*, and it is clear that no such right can be claimed by custom either by one individual or by a class of individuals, for such a custom is bad in law.

"Nor can such a claim be made by any individual on the ground of uninterrupted enjoyment of the produce of trees for many years, *i.e.*, by prescription, for prescription runs not against the Crown.

"No such claim can be made save under a special arrangement or agreement with Government or its officials that the claimant should take the produce of the trees.

"I consequently answer the 1st question in Mr. Under Secretary's letter as follows that an enjoyment of the produce of trees on Government waste land by custom or under a lax system does not amount to a recognition of a right by Government which the Forest Department must respect.

"I think the exception in Section 41 is intended simply as a protection of the rights of private persons against the otherwise sweeping words of the section which, without such exception, would have vested the right to all trees 'wherever growing' in Government.

"I think the section cannot be construed either as an express or implied acknowledgment of the rights of private individuals to the trees growing on Government waste or other lands."

"With reference to the letter No. 3740 of 1881 (29th June last), Revenue Department, from the Under Secretary to Government, to the Solicitor to Government, I beg to say that I am of opinion that the exception to Section 41 of the Land Revenue Code applies to trees on lands set apart under Section 32 of Bombay Act I of 1865 or Section 38 of the Revenue Code, as well as to other lands, and consequently that the wording of Section 41 does not imply that no trees on land set apart under Section 32 of Act I of 1865 or Section 38 of the Revenue Code can be the property of individuals or of aggregates of individuals, and it follows that the setting apart under Section 38 is not sufficient proof that there are no private rights in the trees on the lands so set apart."

(G. R. No. 6550, dated 3rd November 1881.)

PART II.—ROAD-SIDE TREES.

1. The preservation and extension of road-side trees is, in the opinion of the Governor in Council, a matter of much importance.

In order to encourage private individuals to plant trees on their own account along roads, and also clumps of trees (topes) in the vicinity of halting places, and beside wells near to high roads, for the purpose of affording shelter to travellers, the Governor in Council is pleased to authorize the Collectors to remit to persons who may plant trees in clumps, with the view above mentioned, the assessment on such land, not exceeding one acre in each clump, so long as the trees thereon are properly preserved and protected, and are available to the public for shade or shelter. The produce of the trees to be at the sole disposal of the individuals planting them.

Every Collector should be empowered to grant a similar remission of the assessment and the same rights to the produce of the trees which any cultivator may plant as an avenue alongside a public road on land in his own occupation, provided that the strip of land on which the assessment is so remitted shall not exceed 10 feet in width from the ditches or drains at the side of the roadway.

(G. Rs. Nos. 2887, dated 26th August 1863, and 1037, dated 7th February 1891.)

2. Collectors are authorized to purchase trees growing close to the road-sides belonging to private individuals, together with the strips of ground along the road-side on which they grow, where there is no other way of protecting the trees from destruction. (G. Rs. Nos. 3547, dated 14th October 1863, and 739, dated 1st March 1864.)

3. His Excellency in Council is aware that the work of planting trees along the roads under the charge of Local Boards cannot be done without considerable trouble and expense; and that there is no use in attempting to do too much. He would, therefore, suggest that the work be done systematically, and that provision be made for planting each year in each taluka, say, ten miles of existing roads. If such a plan be steadily pursued, the result in the course of a very few years will be that there will be an avenue of trees along every road in the Presidency.

The best agency to employ will be that of the villagers through whose limits the road passes, and the Mámílatdár's kárkún in whose division the village is situated should be entrusted with the supervision of the work. A contract system of payment by results will be found, as a rule, the best that can be adopted. The pits should be ready dug before the commencement of the rain. Where bábul will grow, it should be sown in double rows in the intervals between the planted trees. It will frequently be found that the rayats will pay for the cost of maintaining mango and other fruit trees on the understanding that the produce is to be theirs.

In the case of new district roads the cost of tree-planting and water-supply at convenient distances should invariably be included in the estimate.

His Excellency in Council is satisfied that, if the Collectors and their Assistants will undertake the work of planting these roads, they have far better opportunities of doing it effectually and economically than the Executive Engineer.

(G. C. No. 4271, dated 5th October 1869.)

4. The road-side trees on Provincial roads in the Presidency proper should be taken charge of by the Public Works Department. The sale-proceeds from the lopping and felling of trees will be credited to Public Works Revenue, and the maintenance will be a charge against the Repair Allotment of the roads on which they are situated, the planting of new trees being, as pointed out by the Examiner of Public Works Accounts, chargeable to Original Works, against which head estimates of any necessary expenditure should be submitted for sanction and allotment.

2. The Public Works Department officers should be allowed full discretion in the matter of planting, thinning, lopping or cutting down road-side trees, but no trees should be cut down without the permission of the Collector of the district.

3. Great care must, however, be used in exercising the discretion where the removal of trees of long growth is in question.

(G. R., P. W. D., No. 309 C. W.—1189, dated 23rd June 1890.)

5. His Excellency the Governor in Council does not deem it advisable to prescribe a fixed rule applicable to all districts as regards the management of road-side trees on Local Fund roads. There is, however, no objection to the management of the road-side trees on Local Fund roads in charge of the Public Works Department being transferred to that Department wherever such a course is deemed expedient and the Local Board agrees to it. The transfer may be made under the orders of the Commissioner, who will consult the Chief or Superintending Engineer concerned. (G. R. No. 4047, dated 18th June 1898.)

6. Expenditure on account of road-side plantations and avenues should be charged under regular sanction to the Public Works Department or to Local Funds, according as the roads are Imperial or otherwise; but this should not prevent periodical inspections by Forest Officers if thought desirable. (G. I., P. W. D., No. 88 F., dated 18th February 1869; *vide* G. Rs. Nos. 953, dated 8th March 1869, and 2549, dated 25th June 1869.)

7. Where road-side trees are planted and maintained at the expense of Local Funds, the proceeds are to be credited to Local Funds, but where the rayats are induced to plant, they are to be allowed all benefits. (G. R. No. 3788, dated 9th August 1870.)

8. The proceeds of dead wood and of loppings of trees on Local Fund roads should be credited to Local Funds and of those on Provincial roads to Provincial Funds. (G. R. No. 1862, dated 18th December 1882.)

9. While it is the wish of Government that the work of planting road-side trees of a nature which require fencing and watering should be undertaken by the Collectors, they desire that it may be considered the duty of the Forest Department to further as much as possible the growth by the road-sides of bambus, bábul and other description of trees requiring no special tending. A few days devoted to this work at the commencement of each rains will effect all that is desired. (G. C. No. 3577, dated 5th June 1873.)

10. Pátels are to be encouraged to take an interest in the road-side trees, and those who distinguish themselves in this respect are to be rewarded by pagris presented by the Assistant Collectors at the jamábandi, and when the trees are large enough to require no further care, the names of the Pátels who assisted in their plantation and care are to be inscribed in English and the vernacular on a conspicuous monolithic pillar erected on some well-frequented part of the road.

The date of the plantation and the name of the Collector of the District should also be recorded. It will afford useful information as to the average growth and life of trees.

The trees of each village are to be entrusted to the Pátel and Kulkarni, or where the number exceeds 211 (half a mile at 4 trees per 100 feet on both sides of the road) a certain number is to be entrusted to the Pátels and Kulkarnis of adjacent villages.

The Conservator of Forests and his Assistants will take notice of the state of the road-side trees and report to the Collector any instance of neglect in the plantation of trees in soil or situation unsuited to their growth.

In the Konkan, where land is valuable, the Pátels frequently object to plant road-side trees owing to the injury to their fields from the shade; in such cases they may be induced to plant mango or jack-fruit trees if an assurance is given them in writing that Government has no claim on the fruit of such trees.

The Collectors are authorized to give such an assurance in simple form as follows:—

The Sarkár (or the owner of the field as the case

may be) has planted trees on the boundary of the field of A. B.* In consideration of the injury which the trees may do to the field, A. B. is hereby granted the fruit of such trees; he and his children are to enjoy the fruit as long as they may continue to hold such field. Government has no claim to the fruit and

it may be sold or given away, but the trees are the property of Government and shall not be cut down or injured by any one.*

A great impulse to tree-planting may also be given by the grant of sanads for the plantation of trees in occupied numbers. It is true that Government have no claim to trees planted in occupied lands, but the people do not understand this, and the issue of sanads gives them an assurance which they would not otherwise have. Many lákhs of trees were planted in Khándesh in this way, and the fruit is now more valuable than the grain crop which has hitherto been cultivated.

(G. Rs. Nos. 3283, dated 26th June 1880, and 3812, dated 12th July 1880.)

11. If trees of the reserved class (teak, blackwood, &c.) are planted, a sanad should be granted under the foregoing orders. (G. R. No. 3447, dated 26th May 1882.)

12. Government are aware that there are certain saline districts in Sind in which many descriptions of trees would not grow, but there are certain varieties of trees, as for instance, the pilu, which are peculiarly suited to these saline districts, and trees of that sort should be planted in such places. The pilu thrives well in Sind and in the salt tracts of Gujarát and the Ran of Cutch, which are almost identical with Sind in climate and soil. (G. R. No. 3211, dated 22nd July 1880.)

13. Trees should *on no account* be lopped. An authority on the subject of tree-planting, Mr. McCorkadale, has laid it down that trees should not be touched with an axe. The lower branches which a too zealous and inexperienced tree-planter would cut die off of themselves. (G. R. No. 2570, dated 9th May 1881.)

14. Trees should not be planted so far apart as 50 feet. The shade is not continuous, which is the object of road-side trees, and trees thrive better when planted nearer together; they protect each other from the high winds. (G. R. No. 3346, dated 10th June 1881.)

15. Wherever practicable, road-side planting should be usefully supplemented by utilizing small plots of waste land along the roads, such for instance as corners of fields too small to be of any use for cultivation, and for which compensation had therefore to be given when the line was acquired, and making mango or other plantations thereon. Especially in places where wells are built for the use of travellers, thirty or forty mango trees planted round (but not near enough to allow of their leaves falling into the wells) will soon provide convenient and shady resting places for travellers. (G. R. No. 4251, dated 22nd July 1881.)

* *Note.*—When fields are mortgaged, care should be taken to enter the name of the owner, not that of the mortgagee.

16. In many places the road-side trees encroach so much upon the road that the passage of a loaded cart is impeded. In such places the overhanging branches of the trees should be removed, but this work should only be carried out under the superintendence of an intelligent officer, as, if left to ignorant subordinates, the trees will be destroyed. A measure should be used and only those within a certain height from the road should be cut.

The nandruk tree grows well from cuttings, and if branches cut from these trees are immediately planted, very few will fail to take root.

(G. B. No. 3922, dated 17th June 1882.)

17. Government approve generally of the following proposals made by the Committee appointed to report upon the system of road-side tree-planting which should be adopted. As regards, however, the prohibition of the use of prickly-pear for fencing in young road-side trees, the Governor in Council is inclined to think that it is too sweeping. Prickly-pear, if properly tended, kept within due limits and prevented from spreading, constitutes a most efficacious and also the cheapest fence. It might, therefore, be employed where thorn or other fencing is not easily obtainable, or where a lighter and less impenetrable fence is not likely to protect the young trees from injury by cattle or goats:—

“ We have met in accordance with Government Resolution No. 909, dated 3rd February 1883, and after discussion are of opinion that no hard-and-fast rule can be enforced for road-side tree-planting. In some places cuttings of nandruk and the other Indian figs or of jâmbul do best. In other localities, mangoes and nimb thrive, and in others bábul makes a splendid avenue, sown broadcast and thinned year by year.

“ 2. The expenditure also must, as a matter of course, vary in each case. Seedlings must cost more than cuttings; in some places watering will be the expensive item, in others fencing; in others the cost of nurseries or of transport from the nurseries to the pits. No estimate of the cost in any one district will necessarily cover the cost in another.

“ 3. We must leave it to the District Local Fund Committees generally to plant what trees they have found most suitable along their roads, but we would absolutely prohibit the planting of merely showy flowery trees, which are short-lived, such as the Gul Mohor (*Poinciana Regia*), and varieties of *Cassia Nichas*, *Bává* (*Cassia Fistula*), &c., &c. On this point the District Forest Officers can best advise the Committees.

“ 4. The prohibition, which was originally promulgated to planting bábul and which has not been everywhere withdrawn, must be now specifically cancelled. There are hundreds of miles of splendid bábul avenues to prove the value of the tree along the road-side, both as affording shade and yielding no insignificant revenue.

“ 5. Seedlings should never be planted out until they have been at least two years in pot, by which time they ought to be two or three feet high. Nothing is found more ruinously expensive than the planting out of young seedlings. Only one young seedling should be reared in one pot.

“ 6. Fencing should never be of prickly-pear (*Opuntia dillenii*), but *Euphorbia* such as *E. tirucalli* (Sheyr or milk bush), *E. nerifolia* (Thor), *E. nivulia* (niwdung) may be used;

16. In many places the road-side trees encroach so much upon the road that the passage of a loaded cart is impeded. In such places the overhanging branches of the trees should be removed, but this work should only be carried out under the superintendence of an intelligent officer, as, if left to ignorant subordinates, the trees will be destroyed. A measure should be used and only those within a certain height from the road should be cut.

The nandruk tree grows well from cuttings, and if branches cut from these trees are immediately planted, very few will fail to take root.

(G. R. No. 3922, dated 17th June 1882.)

17. Government approve generally of the following proposals made by the Committee appointed to report upon the system of road-side tree-planting which should be adopted. As regards, however, the prohibition of the use of prickly-pear, for fencing in young road-side trees, the Governor in Council is inclined to think that it is too sweeping. Prickly-pear, if properly tended, kept within due limits and prevented from spreading, constitutes a most efficacious and also the cheapest fence. It might, therefore, be employed where thorn or other fencing is not easily obtainable, or where a lighter and less impenetrable fence is not likely to protect the young trees from injury by cattle or goats :—

“ We have met in accordance with Government Resolution No. 909, dated 3rd February 1883, and after discussion are of opinion that no hard-and-fast rule can be enforced for road-side tree-planting. In some places cuttings of nandruk and the other Indian figs or of jámbul do best. In other localities, mangoes and nimb thrive, and in others bábul makes a splendid avenue, sown broadcast and thinned year by year.

“ 2. The expenditure also must, as a matter of course, vary in each case. Seedlings must cost more than cuttings; in some places watering will be the expensive item, in others fencing; in others the cost of nurseries or of transport from the nurseries to the pits. No estimate of the cost in any one district will necessarily cover the cost in another.

“ 3. We must leave it to the District Local Fund Committees generally to plant what trees they have found most suitable along their roads, but we would absolutely prohibit the planting of merely showy flowery trees, which are short-lived, such as the Gul Mohor (*Poinciana Regia*), and varieties of *Cassia Nichas*, *Bává* (*Cassia Fistula*), &c., &c. On this point the District Forest Officers can best advise the Committees.

“ 4. The prohibition, which was originally promulgated to planting bábul and which has not been everywhere withdrawn, must be now specifically cancelled. There are hundreds of miles of splendid bábul avenues to prove the value of the tree along the road-side, both as affording shade and yielding no insignificant revenue.

“ 5. Seedlings should never be planted out until they have been at least two years in pot, by which time they ought to be two or three feet high. Nothing is found more ruinously expensive than the planting out of young seedlings. Only one young seedling should be reared in one pot.

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[TREES.

we, however, prefer dead fences of thorns, because the young trees get more attention when the fences are being renewed.

“7. Nurseries must be very closely fenced and should be as numerous as possible along the lines of road. There should always be a draining hole in each pot holding a seedling. A seedling reared in an undrained pot cannot thrive and usually dies choked by mud or clay.

“8. Watering is cheaper and more effective when a liberal supply is given once a week, than when a smaller quantity is doled out each day.

“9. It being understood that in future no plant under two years of age is to be put out, the enclosure round it at each pit should be kept clear of weeds. Seedlings should be generally put out in May and watered till the first fall of rain, the holes having been prepared beforehand. Cuttings should be put down in April, when the sap is running up and kept moist till the first fall of rain.

“10. Beyond the above general rules, which we have compiled from our own experience and from the reports before us, we do not think that any other orders are needed.”

(G. R. No. 8428, dated 15th November 1883.)

18. Charges on account of road-side trees are passed by the Accountant General up to the limit of Budget provision and on the countersignature of the controlling officer. No application need, therefore, be made for Government sanction for expenditure on road-side trees. (G. R. No. 4052, dated 7th June 1886.)

PART III.—TREE PLANTATIONS.

1. Where practicable, the embankments of all canals should be planted with trees of whatever description may be suitable to the several localities,

For purposes of firewood the bábul will, as a rule, be found the best.

(G. R. No. 1021, dated 10th March 1869.)

2. The officers of the Irrigation Department have peculiar facilities for raising trees along the banks of the canals, and thereby increasing the usefulness and value of the works, and at the same time obtaining a grateful shade for themselves and their establishments engaged in the canal administration.

Trees planted near a canal require watering at first only, and this may often be done by the canal chaukidárs without expense to Government.

Where canals are embanked, the experience in Holland is that trees of a dwarf description only should be planted on the banks.

In Sind, where the soil is very strong, a row of trees with strong roots like the mango, may be planted at the outer edge of the towing path, and where there is no path at a distance of 15 feet from the edge of the canal. In the Deccan and Gujarát 15 feet should be the minimum distance. Where there is black soil, which is easily softened by water, the distance should not be less than 20 or 25 feet.

It is very common on the first opening of a canal to see a small portion only of the water utilized for irrigation for several years in succession. In such instances the water not required for irrigation might be used for raising plantations of considerable area on lands in the vicinity of the canal, which may be obtained for the purpose. The plantations would probably not require much watering after three or four years. In the Deccan, where there are periodical rains, the majority of trees require no aid after they are fairly up.

In addition to the canal banks, or space occupied by the spoil, a strip of land outside them, 10 feet wide, should generally be taken up for canal purposes. Such additional space will be useful for receiving spoil from annual silt clearances, or for allowing of canal enlargement, and it may be profitably used from the very first for raising timber or fruit trees.

In considering, in consultation with the Forest Department, what kinds of trees should be planted, Executive Engineers should not forget the demand for fruit in the district traversed by the canal, and for timber for building purposes. Fruit trees planted near the canals will prove highly beneficial to the country and remunerative, and the personal experience of the officers has already probably shown them how much need there is of good timber for building purposes, especially in Sind, where so few varieties are found to be proof against the white ant.

The expenditure incurred, and the progress made, as well as the revenue, when the latter commences (and there should be some from the first for canal bank produce, grass, &c.), should be exhibited in the Annual Canal Revenue Reports.

Many endeavours have been made, at different times, by the officers in charge of canals, to rear trees, and they have not been unsuccessful, but they have been too desultory to be half as beneficial as they might have been, and when changes take place in the officers, the trees are often neglected.

The Right Honourable the Governor in Council considers that the business of attending to this important subject should be regarded by the officers of the Irrigation Department as next in importance only to the maintenance of the canal itself, and His Excellency in Council desires that the Superintending Officers will remember this during their tour of inspection, and see that the Executive Officers have every needful aid for giving effect to these orders.

(G. R., P. W. D., No. 66-I—724, dated 23rd March 1869; *vide* G. M. No. 1402, dated 6th April 1869.)

3. There are numerous sacred groves of trees in parts of India where some of the finest and noblest trees in the country are generally to be found. The Government of India would wish that means should be found to preserve the best of these trees. But some of those groves are of vast extent, and most of them are private property, and where circumstances are so varied, it is not possible to provide a set of general rules for their protection.

The attention of all Governments and Administrations is directed to providing, as far as possible, for the preservation of fine specimens of forest growth, in such manner as local circumstances may render most advisable; so that, as far as may be, neither the demands of the market, nor the want of care or forethought of individuals, may bring the finest trees in the country to destruction.

(G. I., P. W. D., No. 8, dated 14th June 1871; *vide* G. R. No. 3108, dated 27th *idem*.)

4. Government will be ready at all times to listen favourably to applications from individuals for permission to plant teak trees. It is not desirable to hamper the applicants with any interference other than that they should specify to the Collector the survey numbers or fields in which they are going to plant teak in order that the authorities may know where to identify the trees which are exempted from the Government claim to a royalty. (G. R. No. 4894, dated 28th August 1876.)

5. Sanads under the signature of the Assistant or Deputy Collector in charge of the taluka should be issued to persons desirous of planting trees in Government waste land in the Kaira District, the sanads to ensure to the holders the right to the produce of the trees, and to provide that the trees

should be given up without compensation should the land be required by Government, and that the wood of the trees, when dead, should belong to Government. The provisos are necessary to prevent troublesome claims.

If there be reason to fear that the practice of planting trees on Government waste land is increasing to an inconvenient extent, the provisions of the Land Revenue Code against the unauthorized occupation of land should be put in force to check it. It is for the Collector to decide in what cases these powers should be employed. If trees have been planted from charitable motives and occasion no inconvenience, it is clearly undesirable to interfere with them, and there appears to be no objection to allowing the persons who planted them to continue in enjoyment of the produce. But it should be clearly understood that the rights of Government are not thereby affected.

(G. R. No. 7709, dated 27th September 1884.)

6. The orders contained in the foregoing Resolution are applicable to the Ahmedabad District and they have also been extended to the Broach District subject to the provisos mentioned in the following extract from the Collector's letter No. R-912, dated 23rd April 1890, being inserted in the sanads:—

“I should be pleased to obtain permission to let it be known that the planting of fruit trees in tank numbers was permitted on the distinct understanding that the planter acquired no right in the soil, that the trees belonged to Government and cannot be cut down, and that the wood will be sold by Government if a tree falls, and that any may be removed without compensation for the purpose of tank widening, deepening, &c., and that no compensation will be given for any damage to them by any excavation of, or work done connected with, the tank, and that all the planter has a right to is the fruit produced, and that Government may, if they think the trees are in positions affecting the capabilities of the tank as a reservoir, remove them.”

The Collector of Broach need not delegate the power to his Assistant or Deputy if he wishes to keep the issue of the sanads in his own hands.

(G. Rs. Nos. 3741, dated 30th May 1890, and 7255, dated 21st October 1891.)

7. It is desirable that the cultivation of the bábul should be encouraged as largely as possible, and the District Officers should use every endeavour to induce holders of land and other persons to undertake to form bábul plantations on lands suitable for the purpose near the villages. The benefits to be derived from the adoption of this course should be explained to them, and any application for land that may be received should be submitted for the orders of Government, with the recommendations of the District Officer and the Divisional Commissioner.

Government will be prepared to grant any reasonable concessions which may be considered necessary in each case. (G. Rs. Nos. 6282, dated 5th August 1884, and 9384, dated 26th November 1884.)

8. In the Ahmedabad District unassessed waste in the neighbourhood of rivers and nálas may be granted for the planting of bábul, by private enterprise, at the discretion of the Collector under the following conditions :—

- (1) The grantees are tenants only.
- (2) No other cultivation or planting but that of bábul will be permitted.
- (3) The grass and the bábul pods and loppings will be the property of the person planting the trees, but no cutting will be permitted. Lopping will be allowed only under proper supervision and under any restrictions which may be considered necessary.
- (4) When the trees are fit for cutting, at the discretion of the Collector, they will be sold and the proceeds shared between the said person and Government. Dead and fallen timber shall be similarly disposed of.
- (5) Prickly-pear shall not be allowed for fencing.
- (6) An agreement containing the above and following conditions shall be granted by the Collector.
- (7) If the land should hereafter become fit for cultivation, the proceeds of the trees may be shared as above, and the land entered in the name of the grantee as survey occupant without any demand on account of occupancy right.
- (8) If at any time the land should be required by Government for any public purpose it shall be given up without compensation. In this case the grantee shall be entitled to the whole of the timber on the land surrendered.
- (9) On breach of any of the above conditions, or if it shall appear to the Collector that reasonable efforts have not been made to plant and preserve trees, it shall be at the discretion of that officer to cancel the agreement.
- (10) Any of the area in which seedlings have not sprung up in a certain proportion per acre after three years will be resumed.

(G. R. No. 3293, dated 26th May 1887.)

Note.—A form of lease for lands granted for bábul plantations under these rules was sanctioned by Government Resolution No. 1300, dated 20th February 1892.

PART IV.—MISCELLANEOUS.

1. The cess on jack-fruit trees should be abolished from the date of the introduction of the survey settlement into a district, and no valuation should be demanded for these trees, which will remain the property of the owners. (G. R. No. 2067, dated 27th May 1868.)

2. The tax levied on fruit trees in the Ratnágiri and Kolába Collectorates should be discontinued. (G. R. No. 5546, dated 7th July 1892.)

3. Serious inconvenience has been experienced in consequence of trees being too close to telegraph wires, and thus interfering with the safe transmission of telegraphic messages, and frequent difficulties and delays have arisen regarding the removal of such obstructions, while, on the other hand, the Civil and Public Works Officers have complained of irregular action on the part of telegraph officers in injuring trees without permission or consultation with the proper authorities. The following rules are promulgated for future guidance, with a view to prevent the recurrence of similar difficulties :—

Rules.

In laying out a new line of telegraph, the telegraph officer charged with the erection of the line should take care that there is no unnecessary destruction of trees, especially those of old and fine growth; and should avoid, as much as possible, interference with existing avenues, groves and plantations, and even single trees, whether public or private property; he should consult the Civil authorities and others and satisfy them on this point; and when a new line is to be constructed along a road, the telegraph officer should be careful not to place it so as to interfere with the future planting of avenues of trees.

(2). Where, after such consultation, it is agreed that interference is unavoidable for the proper construction of the line, the telegraph officer will be careful further to consult the Civil authorities and others concerned, and arrange with them that due compensation is paid to the owners in all cases where the trees are private property.

(3). If the trees are the property of Government they shall, on no account, be cut down or lopped without the permission of the officer in charge of the trees, and if this permission is refused, and the telegraph officer is not satisfied, the matter must be referred to the next superior officer in the Telegraph Department, who may then consult the higher Civil or Public Works authorities, or refer to the head of his own Department.

(4). When new lines are being constructed in Native States, the Political Agent shall be referred to by the telegraph officers to make the necessary arrangements with the Native Darbár for cutting or removing trees, and for granting compensation

(5). Unless under special sanction or agreement with the local officers concerned, no line of telegraph shall be erected parallel to an avenue or side of a grove of trees within 25 feet of the edge thereof. Civil and Public Works Officers are, however, requested to give all reasonable consideration to the requirements of the Telegraph Department as exemplified in the following extract from a letter No. 321 of 6th November 1872, from the Officiating Director General of Telegraphs :—

“In many parts of India and in many instances the only portions of the country not under water in the rains are the main roads, along both sides of which avenues or groves of trees are not unfrequently planted for shade. To place the supports of a telegraph line at a distance not less than 25 feet outside of the boundary of the road, avenues of trees or groves would necessitate the telegraph line being erected well into the fields or jungle liable to inundation at a distance so considerable as to preclude the possibility of inspection from the road, with, moreover, a deep ditch full of water between the road and the boundary thereof. I am, therefore, of opinion that this paragraph should be either cancelled or altered if future extensions of, or alterations to, telegraph lines are to be worked efficiently. If the avenue of trees is of any age and growth, the trees will be sufficiently high and thick to admit of the supports for the telegraph lines being planted within a few feet of their trunks, and of the wires being carried under their branches without many of the latter having to be cut off from the one side, the trees being disfigured or their shade reduced. The telegraph lines in India were at first constructed across the fields and away from the sides of the roads, the result being that at certain times of the year inspection was most difficult and shirked, and involved injury to the growing and standing crops. This system was abandoned when the lines were being re-constructed.”

(6). When new lines of telegraph must be taken over avenues, they should be carried across as nearly at right angles as possible. Long slants are objectionable, as they interfere with many trees.

(7). The Civil or Public Works Officers are desired to inform the officers of the Telegraph Department immediately on becoming aware of any cases in which telegraph lines are being constructed within 25 feet of any grove or avenue, or so as to prevent the convenient planting of a road avenue in future, or generally when any arrangement of a line of telegraph is likely to cause inconvenience or injury. In case of failure to arrange with the officer immediately concerned, the matter should be brought to the notice of the local head of the Telegraph Department, and also reported to higher authority in the Civil or Public Works Department.

(8). Where existing telegraph lines are within 25 feet of any avenue or grove of trees, the telegraph officer shall be primarily responsible that the wires are kept free of contact. To this end he may, without reference to the officers in charge, keep boughs up to 2 inches diameter clear for a distance of 3 feet from the line of telegraph wire.

Likewise, twigs and small boughs easily moved by the wind may be cleared away for a distance of 6 feet from the telegraph line without reference to the officer in charge.

(9). In cases where it is necessary that large boughs or tops of the trees should be cut, permission to cut them should be asked in writing from the officer in whose charge they are; should no answer be received within ten days of the date of despatch of the letter to the office of the officer concerned, the telegraph officer may intimate his intention to proceed to cut the branches, and one week thereafter shall be at liberty to cut the branches without further reference.

(10). Telegraph officers shall be held responsible that the cutting and lopping of trees is not more than is absolutely necessary for the proper working of the telegraph line.

(11). Public Works officers and other officers in charge of roads will be held responsible that trees are not planted in positions where they are likely to interfere with the telegraph wires, *viz.*, within 25 feet of them as laid down in Rule 5.

(12). The officers of the Telegraph Department are required immediately to make a courteous remonstrance in any case where trees are being planted within 25 feet of, or so as to be likely to interfere with, a telegraph wire, and in case of their objection not being attended to, they should report at once to their immediate superiors. The Superintendent of the Division or the superior officer shall represent the case to the local authority in charge of the planting, and endeavour to get the trees removed, failing which he should report to the head of his own Department.

(13). Wherever possible, trees that have been recently planted within the prescribed distance should be removed.

(14). It may be necessary in some few cases to remove existing lines of telegraph which interfere seriously, or are likely so to interfere, with groves or avenues of trees, but on account of the expense no such removal is to take place without a special report to the Government of India of all the circumstances of the case. Such report must distinctly show whether the avenue was first planted or the telegraph line first erected.

15. The foregoing rules are not applicable to lines of telegraph passing through forest and jungle tracts, but care should, nevertheless, be taken to avoid injury to large trees which are in every situation to be considered as valuable.

(G. I., P. W. D., No. 74—87-T, dated 4th February 1873; *vide* G. R., P. W. D., No. 67—398, dated 21st *idem*, and G. M. No. 1173, dated 28th *idem*.)

4. The sale proceeds of fruit and other trees growing within the limits of tanks maintained by

the Irrigation Department should be made over to that Department. (G. R. No. 2588, dated 30th March 1883.)

5. Trees growing within railway boundaries should be considered the property of the Railway Company unless reserved under special orders (as in the case of part of the B. B. & C. I. Line). Trees within the railway fences are the property of the Railway Company as much as the grass. (G. Rs. Nos. 9313, dated 18th December 1883, and 247, dated 11th January 1890.)

6. The following rules have been framed by the Collector of Thāna, under Section 44 of the Land Revenue Code, for the regulation of the exercise of privileges in gurcharan lands not included in forest and have the approval of Government :—

1. Cultivators whether residents or not in a village shall be allowed to cut, for rāb, in the lands of the above description, situated within the same village, branches and twigs of all trees and shrubs except teak, blackwood and 'tivas,' provided that they do not cut the leading shoots of any trees.

2. Similarly the same cultivators may cut in the same lands thorns and 'jhitas' required for fences.

3. Residents in the village shall be allowed to cut dead wood for firewood for their own use, but not for sale beyond the village. They shall not, however, be allowed to cut green wood for firewood.

4. Residents in the village shall be allowed to cut wood and bambus for agricultural implements or for building cattle sheds, &c., on receipt of permission from the Assistant or Deputy Collector in charge of the táluka. Mahárs and members of other low castes may be allowed permission to cut wood for their huts in the same way. Petitions may be made to the Mámílatdár who, after making inquiry, shall report to the Assistant Collector. Care must be taken that no excessive cuttings are allowed under this rule. Abuse of any of the above rules will be punished by the privileges being stopped.

(G. R. No. 8991, dated 6th November 1885.)

VILLAGE OFFICERS AND SERVANTS.*

PART I.—DUTIES, EXAMINATIONS, DISMISSALS, &c.

1. In the cases of dismissals of village officers holding more than one office, dismissal from one office implies, unless specially stated to the contrary, dismissal from the others also. (G. R. No. 418, dated 3rd February 1862.)

2. It is unquestionably the duty of Patels to render every assistance to travellers, whether official or otherwise, provided payment is duly tendered. (G. R. No. 1286, dated 12th April 1866.)

3. As a rule, it is necessary that Kulkarnis should reside in the villages to which they stand appointed. Exceptions may be made in the case of small outlying villages where there is no house accommodation and where the emoluments are trifling. It is in the discretion of the Collector to make these exceptions. (G. R. No. 3005, dated 23rd June 1870.)

The Collector must insist on village officers residing within their charges, diaries being instituted to ensure their doing so. (G. Rs. Nos. 5571, dated 26th September 1881, and 5698, dated 30th idem.)

4. Talátis must be obliged to reside within their charges. (G. R. No. 569, dated 21st January 1884.)

5. When there is no chora and no available house or when the saja is fatally malarious (during the season when the malaria is prevalent), the order that Talátis should live in their saja should be formally cancelled. But they should be required to visit it frequently and whenever business demands. To ensure this, they should submit a monthly diary to the Mámlátdar, who should closely scrutinize it and report every case of neglect of duty.

When there is a chora in the saja or an available house on possible terms, the Taláti is to live in it. All District officers to see that he does. Any villager, if asked in casual talk, will say where the Taláti lives if he is not led to suspect he is being asked for a purpose.

As a rule, absence without leave should not be punished with fine. It is an inappropriate punishment (if any other is possible) for a man who has to support often a large family of relations on Rs. 10 to 20 per month, and only drives him to illicit practices. A note should be made against him in the Assistant Collector's note-book and he should be formally told of it. He will dread this more than an eight-anna fine, especially if, as should be the case, two or more such notes are followed by his removal to a distant taluka. For flagrant abandonment of duty still more severe punishment is due.

* Vide also "Watanas."

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The Assistant Collector and Collector should keep a sharp look-out that the Mámlatdár does not employ Talátis on ordinary work in his kacheri, and should take strong measures to stop the practice if it exists.

All the Commissioners should consider the advisability of making all village accountants keep diaries showing from day to day where they had been residing and what work they had been doing.

(G. R. No. 5958, dated 18th July 1899.)

6. The Commissioners should look in the course of their tours into the manner in which village accountants and Revenue Patels are fined for neglect of duty, &c., by Assistant Collectors and Mámlatdárs, and take such notice as they think proper of cases in which such punishments may appear to have been indiscriminate, or in which it would, in their opinion, have been better to dismiss than fine. As these valuable public servants may be almost considered the main spring of the revenue administration, it is of great importance that their efficiency should not be impaired by injudicious treatment. Among other methods of punishment the system of inflicting daily recurring or cumulative fines (*e.g.*, a fine for every day's delay in sending in certain reports or information) is apt to run into greater extremes than the occasion may warrant, and it should be a standing order that it should not be resorted to by an Assistant without the Collector's special permission. It will rest with the Collector to determine to which of his Assistants authority to inflict penalties of this description should be deputed. (G. R. Nos. 2519, dated 3rd May 1873, 5139, dated 13th September 1873, and 5752, dated 17th October 1873.)

7. Usually it is better to make one or two severe examples of village accountants by dismissal or transfer to a village with smaller emoluments than to punish by frequent fines. But the power of punishment will be exercised with care and moderation. (G. R. No. 5206, dated 9th September 1881.)

8. Nothing is more calculated to excite a feeling of discontent than indiscriminate punishments of village officers for trivial mistakes, and Collectors should carefully supervise the proceedings of their Assistants in this matter. (G. R. No. 1237, dated 13th February 1893.)

9. If a warrant of attachment is issued by the Civil Court against a rayat's property which is already under attachment by the Revenue authorities, the Patel of the village, in order to satisfy the Kárkún executing the warrant and the Court that there is a *boná-fide* attachment by the Revenue authorities, should give a certificate to that effect, which certificate should contain a sufficient description of the property, and should state the amount of the Government demand. When an attachment has been issued in such cases by the Civil Court, the sale of the property by the Revenue authorities on

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their prior attachment should be completed as quickly as the law allows. (G. R. No. 6711, dated 13th December 1873.)

10. It is the duty of Patels and Talátis, who are remunerated according to scale calculated on the revenue of each village, to protect trees as being the property of Government which yields that revenue. (G. Rs. Nos. 2731, dated 5th May 1876, and 3102, dated 25th idem.)

11. It is the duty of Patels, Talátis, Kulkarnis, and Shánbhogs to preserve, with the utmost care, all trees growing in Government waste land, or trees the property of Government, wherever they may grow.

The responsibility of these village officers will be strictly enforced in future.

(G. R. No. 1583, dated 28th March 1878.)

12. It is of vital importance that the timber and other vegetation on the slopes of the Purandhar Hill should be carefully preserved. The Rámoshis have not and never have had any claim or right to cut the trees or to injure the jungle by cultivation, or in any other way. They were its custodians, not its proprietors, and it was for its protection that they were originally granted service lands. They should be made to understand that they hold their lands on service tenure, and that they are liable to be called on to do service at any time that the state of the country may require it. In order to keep alive the right of Government to demand it, the Rámoshis of each hamlet should be called on, in turn, to provide a watchman for service with the Police on the Purandhar Fort. (G. Rs. Nos. 3014, dated 14th June 1878, 6285, dated 12th September 1882, and 8918, dated 19th December 1882.)

13. Village officers should be made to understand that they are indirectly responsible for the preservation of forests as being the property of Government. The fact that there is a forest establishment, whose prime duty is solely to look after forests, does not relieve the village officers from their share of responsibility in the matter. Accordingly, the village officers in forest villages should submit a half-yearly report on the state and condition of the trees belonging to Government in forests and máiki numbers in their respective charges to the Assistant Collector in charge of the táluka, who should forward it to the Divisional Forest Officer. (G. R. No. 5062, dated 19th July 1890.)

14. Each Taláti should, in preparing his birth and death returns, account for the differences he exhibits, explaining increases and decreases by an abstract in the following form :—

<i>Village.</i>	<i>Táluka.</i>			
Population, 1875-76	5,233
Do. 1876-77	5,684
			Increase	... 451

PART I.] [VILLAGE OFFICERS AND SERVANTS.]

Increase—					
Births	...	...	...	...	875
By immigration	...	...	...	...	16
				Total	891
Deduct Decrease—					
Deaths	...	...	...	...	430
Emigration...	...	...	...	...	10
				Total	440
				Net increase	451

(G. R. No. 1258, dated 21st August 1878.)

15. It is in every way better to register births in the place where they occur, and village officers should be instructed accordingly. (G. R. No. 4174, dated 9th August 1879.)

16. Officers should be careful to ascertain that a Kulkarni is competent to the performance of his duties before appointing him to the post. (G. R. No. 4282, dated 16th August 1880.)

17. Though opposed to a general system of rewards to village officers for the efficient performance of their duties, Government sees no objection to the grant of suitable rewards in exceptional cases, for instance, when a Patel, Kulkarni or Taláti shows extraordinary energy on any particular emergency, such as an outbreak of cholera, attack on the village by dacoits, the realization of the Government revenue under great difficulties, and other occasions which will at once occur to Revenue officers of experience. In such cases, the Collectors may mark the efficient service rendered by conferring on the officers, who render it, the distinction of honorary pagries to be presented by the Collector or Assistant Collector at the time of the jamábandi in the presence of the Revenue and other officers and the village people gathered on such occasions, the charge on account of such rewards being met from the Provincial Revenues. (G. R. No. 6672, dated 16th December 1880.)

18. The instructions issued by the Commissioner, C. D., in his letter to the Collector of Ahmednagar, No. 1944, dated 21st April 1883, regarding the collection of revenue by village officers, the necessary extracts from which are subjoined, have been approved by Government:—

“No hard and fast rule should be laid down, and, while holding the village officers jointly responsible for the due collection and accounting of Government money, we should allow them a small latitude in the matter which they are of course expected to use with due discretion and in view to the peculiar circumstances of each case.

“Thus if the Patel is absent on some emergent business for a day or so, the Kulkarni may be allowed to collect money and duly remit it to the taluka or keep it in his custody till the Patel comes back. The Patel is of course expected to satisfy himself of the Kulkarni's proceedings during his (Patel's) absence. In fact, the Kulkarni is always supposed, so far as urgent matters are concerned and provided there is no legal disability, to act on behalf of the Patel during the latter's temporary absence on duty.

"To sum up, it appears preferable that the revenue should be paid to the Patel in the presence of the Kulkarni, but if the former is absent, there is no hindrance whatever to its receipt by the Kulkarni. Any other ruling would not only cause great delay and irregularity in the collections, but it would be exceedingly inconvenient to the people.

"As regards the Potdárs, you are right in ordering that they should not be allowed to have anything to do with the collections."

(G. R. No. 3845, dated 19th May 1883.) ✓

19. There is no objection to the promotions of Talátis to posts of Kárkúns. A judicious use of such promotions as rewards for good work would probably have a beneficial effect. (G. Rs. Nos. 185, dated 22nd January 1884, and 10079, dated 16th December 1885.)

20. Stipendiary Patels and Talátis are clearly salaried servants of Government for the purposes of the Local Boards Act, but Patels and Kulkarnis, who receive their remuneration in the shape of service lands, cannot be held to be in receipt of salaries. (G. R. No. 10182, dated 26th December 1884.)

21. All Patels should be warned that severe notice will be taken of any cases in which persons in the influential position of officiating village officers are found to have collected subscriptions in their villages for their own private benefit. (G. R. No. 1189, dated 9th February 1885.)

22. A person who when serving as Kulkarni commits the serious offences described in Sections 213 and 214 of the Indian Penal Code, is unfit to be again entrusted with the duties of Kulkarni. (G. R. No. 9889, dated 9th December 1885.)

23. Membership of Patels in an association formed to make public protest against Forest administration should not be visited by the suspension of the Patels from office. As landholders they are within their right of appeal against orders which affect them. (G. R. No. 2538, dated 1st April 1886.)

24. Village officers should be allowed a refund of the amount of road toll paid by them when travelling on duty, on the production by them of a certificate signed by the Mámlatdár of the taluka in which they are employed. (G. R. No. 4849, dated 8th July 1886.)

25. It appears that it is the common practice in every district in the Northern Division to employ Talátis to assist the Kárkúns in the Mámlatdár's kacheris, both on special occasions and whenever there is pressure of work. Instructions, however, should be issued to Mámlatdárs not to employ Talátis in their kacheris without previously obtaining the permission of the Assistant or Deputy Collector in charge of the taluka. (G. R. No. 8880, dated 23rd November 1889.)

PART I.] [VILLAGE OFFICERS AND SERVANTS.]

26. The efficiency of the village service can be improved by requiring proof, before any Watandár is appointed to be Kulkarni, that such Watandár is competent to discharge satisfactorily the duties of the office. To the adoption of such a course no reasonable objection can be raised. It would not be too much to demand that every Watandár should, before he is nominated to the post of Kulkarni, satisfy the appointing officer that he is able to read and write well, is a fair arithmetician and possesses some knowledge of the system of village accounts.

Section 45 of the Watan Act empowers a Collector to refuse to accept the service of any representative Watandár, or of any deputy nominated by him, if he has reason to believe that such Watandár or deputy is unfit owing to mental inability to perform efficiently the duties of his office; a Watandár, therefore, who has not been educated sufficiently to do the work of a Kulkarni, is mentally unfit to officiate as such, and may be rejected.

(G. R. No. 8805, dated 15th December 1882.) ✓

27. The test to be exacted from Watandár Kulkarnis before they are held eligible for appointment should be different from any of those prescribed by the Educational Department. It should consist of an examination in the following subjects:—

- (a) Reading and writing the vernacular of their district.
- (b) Mathematics up to simple interest.
- (c) A knowledge of Hope's Forms.
- (d) A knowledge of the Village Police Act.
- (e) Capability to draft a short simple report regarding something that has taken place in the village.
- (f) A knowledge of the rules for the inspection of field boundary-marks. (Appendix B, pages 121 to 124 of the Survey and Settlement Manual, 1882.)
- (g) A knowledge of the Cattle Trespass Act rules.
- (h) A paper on the part of the Land Revenue Code and subsidiary rules which concern the duties of village officers may also be added as a voluntary subject at the discretion of Collectors.

The rules should be applied to Watandárs appointed for life as well as those appointed for a shorter term. (G. Rs. Nos. 6031, dated 15th August 1883, 8420, dated 15th November 1883, and 3686, dated 8th May 1884.)

28. Every person about to be appointed officiating Kulkarni or deputy must first pass the prescribed examination.

The examination should be as nearly as possible just before the time when a Watandár is about to enter an office so as to test his fitness at that time. If the order is applied thus, it is not necessary to allow candidates to come up badly prepared when

VILLAGE OFFICERS AND SERVANTS.] [PART I.

their term of office is remote and make repeated attempts to pass. (G. Rs. Nos. 3686, dated 8th May 1884, and 4545, dated 25th June 1886.)

29. Questions on the subjects prescribed by Government for the examination of Watandár Kulkarnis will be set from Mr. Dhondo Gopal's "Village Officers' Manual," Part I, which should be considered as a text-book. (G. N. No. 6254, dated 4th August 1884.)

30. Watandár Kulkarnis who pass the prescribed examination in all the subjects except one should be allowed to appear again after a reasonable time to pass in that particular subject, the appointment of deputies being made temporarily by Government. (G. R. No. 1249, dated 14th February 1889.)

31. As regards the educational test to be prescribed for Patel officiators in accordance with amended Section 45 (b) of the Bombay Hereditary Offices Act III of 1874 as amended by Section 9 of Act V of 1886, as also under Section 30 (c) of the Gujarát Matadárs' Act VI of 1887, Government approve of the views expressed by the Commissioners of Divisions that ability to read the Village Police Act, to write a short report on an ordinary matter, and to read simple manuscript should be considered sufficient qualification. This test should be enforced except in cases where the Collectors consider it inadvisable to do so. No regular examination need be held. A Patel's qualifications can always be ascertained prior to his nomination. (G. R. No. 2718, dated 2nd May 1888.)

32. Government are not prepared to authorize the use of service stamps by Patels and Kulkarnis, as it would in many cases involve delay in the transmission of reports, the risk of fraud and some additional expense without adequate grounds for relieving the lower village servants of a duty which they have performed from time immemorial. (G. R. No. 5328, dated 16th July 1897.)

33. No practical objection exists against the village officers being instructed to give every assistance to bailiffs when serving processes. Collectors should therefore issue the necessary instructions. (G. R. No. 8241, dated 20th December 1898.)

PART II.—EMOLUMENTS.

1. Cash allowances in lieu of potgi should not be continued when in excess of the amount required by scale. As Wingate's Rules do not provide for the case of an addition to the arable land of the village, the provision for extra remuneration in cases regarding the increase to hereditary village officers' emoluments when jungles are sub-divided and new land becomes available for cultivation must fall wholly on Government if the watans of the hereditary officers be already taxed to the full extent; but when this is not the case, the watan land must be made liable to a further contribution to remunerate the officiator. A revision would, therefore, be requisite whenever lands have been added either owing to this cause or to lapses of ináms. (G. R. No. 397, dated 30th January 1860.)

2. As survey rates include all direct levies, the village officers cannot be permitted to levy haks in excess of the authorized assessment.

The proper payment of village officers is part of the survey system which must be maintained in its entirety. In a wholly alienated village the Inámdár must, therefore, provide for the remuneration of the village officers according to scale, as he receives the whole of the revenue derived from the village. (G. R. No. 686, dated 20th February 1860.)

3. To allow remission to village officers for the judi of their lands, when waste or uncultivated, will be a retrograde step. It would be a return—though a partial one as affecting only a particular class—to the old system of annual remissions, and the character of the transaction would not be altered by limiting it to the Patels' and Kulkarnis' lands excluding all record of it from the Táluka and Huzúr accounts. (G. R. No. 2461, dated 9th July 1860.)

4. Patels and Kulkarnis wishing to resign their inám lands and to receive instead a full money payment according to scale should be permitted to do so. (G. R. No. 3839, dated 24th October 1860.)

5. The Collectors in districts where Wingate's scheme of settlement regulating the scale of remuneration of village officers has been introduced, are not authorized to deviate from the rules laid down and sanctioned for their guidance. They must submit explanation of the grounds for any proposed deviation, and obtain the authority of Government to the measure. (G. R. No. 732, dated 11th February 1861.)

6. The percentage remuneration of village officers on the summary-settlement collections should not be calculated separately, but as part of the general land revenue of the village. But it would not be equitable to refuse a re-adjustment of the five years' average when the collections from this source of revenue amount to a considerable

PART II.] [VILLAGE OFFICERS AND SERVANTS.

sum. Whenever the collections from the summary settlement amount to 10 per cent. on the revenue upon which the average was fixed, the summary-settlement collections should be added to the average as formerly ascertained and the haks of village officers re-adjusted. (G. R. No. 3442, dated 11th September 1862.)

7. The remuneration to be allowed to Patels and

*1. Chauthai and Nazarána or quit-rent under any denomination paid by alienees themselves and others under every description of summary settlement.

2. Revenue from lapsed Ináms or Shetsandi lands.

3. Mámul Judi paid by alienees and others.

4. Sale of fruit trees and other such items of land revenue.

Kulkarnis of alienated villages on all items of land revenue as detailed in the margin* levied by them for Government from such villages should be fixed for the Patel at the rate of a quarter of an anna and for the

Kulkarni at the rate of half-anna on each rupee collected. To avoid, however, the labour which this practice entails on the Huzúr and Táluka establishments of preparing annually statement of remuneration to be paid to the village officers, the emoluments of these officers should be fixed on the average of five back years' revenue collected by them, and they should be paid at this rate for ten years to come. The Kulkarni is to defray whatever charge may be necessary on account of stationery, &c. In villages in which a Patel has a service inám and allowance amounting together to Rs. 120, or a Kulkarni to Rs. 240 per annum, nothing should be paid to them. They must collect the Government dues from alienated villages in consideration of the enjoyment of their old ináms and allowances only. (G. Rs. Nos. 1861, dated 5th June 1863, 1654, dated 16th March 1876, and 3088, dated 12th June 1879.)

8. A tenant of an Inámdár would clearly appear to be a person occupying immoveable property free from assessment under Section 17 * of the Watan Act,

* As regards the construction of the section, *vide* the following judgment of the Bombay High Court, copies of which were forwarded to the Collectors and Commissioners of Divisions with Government Resolution No. 9811, dated 30th November 1894:—

Appeal No. 62 of 1893 from Original Decree.

Anantacharya bin Hariacharya Jághirdár } Appellant
(Original Plaintiff) }

versus

The Secretary of State for India in Council } Respondents.
and others (Original Defendants) ... }

Appeal from the decision of Venkatrao R. Inámdár, Esquire,
Assistant Judge, F.P., of Bijápur, in Suit No. 1 of 1891.

Mr. Shamrao Vithal for the appellant.

The Government Pleader for respondent No. 1.

Judgment.—In this case the appellant (original plaintiff) is the Inámdár of Ankalgi in Bijápur Táluka. Respondent, defendant No. 3, is the Watandár Kulkarni of the village, the watan being described as kadim watan. The watan property held for the performance of the duties consists of a cash payment of Rs. 5,

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1874). It seems immaterial whether the cultivators do or do not pay rent to the Inámdár. It is sufficient that no assessment is paid to Government. (G. R. No. 7884, dated 26th December 1881.)

and inám lands assessed at Rs. 60. Defendant 3 failed to perform the service himself, or to appoint a deputy. Defendant No. 1, represented by the Collector of Bijápur, thereupon appointed defendant No. 2 as deputy, and defendant No. 2 officiated from 20th November 1884 to 4th December 1886. Defendant No. 2 applied for suitable remuneration, and defendant No. 3 agreed to pay him Rs. 80 a year, which sum was accordingly paid in part by, and levied in part from, defendant No. 3. Subsequently defendant No. 2 applied to the Collector for an increased remuneration according to the scale fixed for Government villages, and the Collector on 2nd December 1887 ordered the plaintiff to pay the increased remuneration so as to make up the full amount due under the Wingate scale, and on 26th September 1890 a sum of Rs. 171 was recovered from the Inámdár plaintiff. Plaintiff claims that this sum was illegally levied from him, and he seeks in this suit to recover the same with interest.

Defendant No. 1 pleaded that, on the application of defendant No. 2, the Collector, acting under Section 17 of Bombay Act III of 1874, determined the amount payable by plaintiff as remuneration to defendant No. 2, and under Section 81 levied the amount. The amount awarded was Rs. 158-15-8, and the sum levied was Rs. 171. Defendant No. 1 gave notice to the plaintiff to take back the excess (Rs. 21-6-4), but he refused to do so at the time, though the sum was, since the institution of the suit, received by the plaintiff. Defendant No. 1 contended that he was not liable to the plaintiff, who had no cause of action as against him. At a late stage it was also urged that the suit could not be maintained under para. 3, Section 4, of Act X of 1876.

Defendant No. 2 urged that plaintiff had no cause of action against him, as he was entitled to receive the remuneration fixed according to the scale.

Defendant No. 3 did not appear to defend the suit.

The Assistant Judge held (1) that the suit was not barred under Section 4 of Act X of 1876; (2) that plaintiff, and not defendant No. 3, was liable to make good the remuneration as fixed by the Collector; and (3) that plaintiff's claim could not be awarded.

Plaintiff appealed from this decree on several grounds which it is not necessary here to state in full, as his pleader chiefly relied upon the contentions raised in the 3rd and 5th objections in the memorandum of appeal—namely, that the Collector had no power to raise the scale of payment, and that the Assistant Judge erred in not finding expressly whether the Collector could, under Section 17 of the Watandárs' Act, order plaintiff to pay the enhanced amount. Mr. Shamrao, the appellant's pleader, urged that the plaintiff, as Inámdár, could not be saddled with any payment not included in the sanad, and that the Collector's procedure was defective in that he held no inquiry under Section 73 before he passed his order, and further that the Collector was bound to obtain the sanction of Government under Section 21 of the Watandárs' Act. He also urged that Section 17 of the Act applied only to old customary payments in kind or money, and at the most under Section 23 the Collector could only grant increased remuneration from the watan property, and he had no power to levy the same from the revenues of the village.

The Collector professedly passed his order under Section 17 of the Watandárs' Act, and the chief question we have to consider is, whether that section, or any other section gave authority to the Collector to require plaintiff to make up the deficient amount of defendant No. 2's remuneration according to the scale in Government villages.

On a careful consideration of the several provisions of Bombay Act III of 1874, we feel satisfied that appellant's contention is well-sustained, and that neither Section 17 nor any of the other provisions of the Act authorized the procedure followed and the order issued by the Collector. Section 17 must be read along

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9. The dues which a Kulkarni is entitled to recover from the cultivators of an inám village are not "charges on the revenue or rent of villages, or other defined portions of territory." They are pay-

with the other sections which together form Part 3--headed the Commutation of Watans as opposed to Part 4 which relates to the creation or lapse of a watan. This heading of commutation is itself suggestive of a strict restriction on the exercise of the powers conferred on the Collector. Section 15 empowers the Collector to relieve a Watandár of his liability to perform service, but this relief is under Section 16 not to affect the rights of individuals or village communities to exact customary services from village servants, the relief extending only to the service due to the State. Next comes Section 17 with its complementary Sections 18 and 19, the former applying to payments in kind or money made to Watandárs by Jághirdárs, Inámdárs, Mowási Chiefs, or others, owning or occupying immoveable property wholly or partially free from assessment, while the latter sections relate to the inferior watans, where the payments in money or kind are due to the Watandár from individuals generally, without any particular specification. In the case of the holders of alienated lands, the Collector is himself to determine the amount of the payments due to the Watandárs. In the case of cultivators generally, the inquiry is to be entrusted to a Pancháyit, and if the Pancháyit fixes profits which are of a fluctuating nature, the Collector is empowered to determine the amount payable. The words used both in Sections 17 and 19 are exactly the same, and they must be construed alike. These amounts so determined under Sections 17-19 are, moreover, to hold good for such period as the Governor in Council may from time to time direct.

It is thus plain that Section 17 clearly relates to the power of the Collector to determine payments of a fluctuating character. The word "watan" property, as defined in Section 4, expressly includes not only property assigned or held for service, but also a right to levy customary fees or perquisites in money or kind, whether at fixed times or otherwise. It is the commutation of these customary and fluctuating demands which is provided for in Sections 17-21. Unless the payments claimed already formed part of the watan property by force of custom, there is no foundation for the exercise of the authority to determine their amount conferred by these sections. The payments and the right must exist beforehand, and then, if the payments or the right is of a fluctuating or indeterminate character, the Collector in the one case, and the Pancháyit in the other, can determine the amounts of *such* payments (Section 17), and *such* rights and duties (Section 18). In the present case it is admitted that the Inámdár has only been paying Rs. 5 in cash to the Watandár. The Collector had, therefore, no occasion to determine the amount as it was not of an uncertain nature. It does not follow from the fact of this payment of Rs. 5 in cash, that the Collector had authority, under Section 17, while professing to determine the amount, to raise the cash payment from Rs. 5 to Rs. 80. The Collector can only determine the amounts of *such* payments as were already payable, and it is not open to him under this section to increase the amounts as he has done in this case.

This view of the scope of the section is strengthened by the fact that in the first draft of the Bill, the words used were that "it shall be lawful for the Collector to assess the amount of *such* payments recoverable upon an average of the 10 years next preceding." This limit of 10 years' average was subsequently given up, and in its place the proviso was added that the amount to be determined was to be equivalent to the amount payable under the scale in force for the time being in the case of Government villages. These words were not intended to refer to the scale of remuneration fixed by Government, known as the Wingate scale, for this latter scale has no reference to uncertain customary payments of the kind contemplated in Sections 17-21. Under Section 216 of the Land Revenue Code, the holder of an alienated village is not bound by the provisions of Chapter VIII relating to survey settlement, not introduced with his consent, which was the case in plaintiff's village.

A number of opinions of the Legal Remembrancer to Government have been filed in this case on defendant No. 1's behalf.

ments for which the cultivators are liable to the Kulkarni in addition to the rent, if any, which they pay to the Inámdár and are not recoverable from that rent. Moreover, it cannot reasonably be con-

Such opinions cannot well be admitted in evidence, as they are opinions given in a one-sided inquiry. Such as they are, they do not go far enough to support defendant's contention. In one, Exhibit 22, however, it is stated that there can be no objection to the Collector proceeding under Section 17, and if the Inámdár objects, he is required to report for further orders. In another, Exhibit 20, it is stated that there can be no injustice in *prima facie* holding that Section 17 applies, and the Inámdár may be left to show cause to the contrary. In a third it is directed that the defect in the law should be noted when the Act is next amended. No value can attach to opinions so obviously one-sided and halting.

We feel satisfied accordingly that Section 17 cannot be regarded as authorizing the interference of the Collector in this case. We have next to see if any other section can be held to support it. The Collector had no doubt power under Section 36 to appoint a deputy, and such a deputy would be an officiator under Section 3. Under Section 23 the Collector had power to fix the annual emoluments of the deputy and to direct the payment thereof to the officiator. These words are large enough to cover the order issued by the Collector in this case, but the second paragraph of this same section provides a limitation on this power, in that it directs the Collector to assign watan property as the profits thereof towards the emoluments of officiators. The emolument is to come from the profits of the watan. This was in fact the procedure followed by the Collector in this case in the first instance, when he directed defendant No. 3 to increase the amount of the remuneration payable to defendant No. 2. Section 23 does not authorize the subsequent procedure of the Collector when he ordered plaintiff to make good the deficiency. The scale in British territory was not obligatory on the plaintiff. It was, moreover, only a maximum limit. Defendant No. 3's inám land was assessed at Rs. 60. Plaintiff, however, was not bound by this limit, as he did not accept the survey settlement. Plaintiff in fact asserted that the land yielded a profit of Rs. 105, and his assertion was not challenged by defendant No. 3. This resource was open to the Collector to make good the deficiency. Anyhow Section 23 no more than Section 17 authorized the Collector's procedure so far as plaintiff was concerned. Section 16 of the Land Revenue Code also does not provide for the present case, because it does not extend to alienated villages. We accordingly hold that the levy of Rs. 171 made by the Collector was one not authorized by law, and that, under the circumstances, plaintiff has a right to recover the amount minus the sum of Rs. 21-6-8 already received by plaintiff. Defendants Nos. 2 and 3 need not have been made parties to the suit.

At a late stage of the suit, as also in the argument before us, it was urged that the present suit was not maintainable under paragraph 3, Section 4, of Act X of 1876. If the Collector had *prima facie* jurisdiction to pass the order he did, plaintiff would certainly have no right to sue to set aside or avoid the order. As it is, the Collector had no power to levy the money from plaintiff as ordered by him. The order was not passed by Government, and the Collector cannot be regarded as having been duly authorized to act illegally and without jurisdiction.

We accordingly reverse the decree and direct defendant No. 1 to pay Rs. 149-9-4 with costs to plaintiff. We disallow interest. Defendant No. 1 should bear his own costs, and plaintiff should pay the costs of other defendants Nos. 2—3.

M. G. RANADE.

12th July 1894.

This appears to be the first case in which the construction of Section 17 of Bombay Act III of 1874 has come before this Court. I concur with Mr. Justice Ranade in holding that the order made by the Collector is not one that can be made under Bombay Act III of 1874, and that it is *ultra vires* of Section 17.

PART II.] [VILLAGE OFFICERS AND SERVANTS.]

tended that the words "villages or other defined portions of territory" include cultivators' holdings. For these reasons it cannot be held that such haks as those in question are covered by the definition of

which is pleaded for the Collector as giving warrant of law. I am of opinion that the payments to which Section 17 refers are those mentioned in Section 4, where it is said the term watan property "includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise." What the Collector did is analogous to what may be done under Section 22; but while that section places the cost of creating new watan on the Government, the Collector has placed that of the additional watan property his order seeks to create upon the Inámdár. The words of the two Sections 17 and 22 differ much; and we may therefore infer a different meaning in each, especially as Section 23 limits the Collector to the existing watan and its profits in assigning emoluments to the officiator. Under Section 17 "the Collector may from time to time determine the amount of such payments recoverable" from the Inámdár. As the scope of the section appears to be misunderstood, perhaps because the old order of things is changed, I may refer to the earlier printed records of Government where the nature of these payments is described. In Mountstuart Elphinstone's Report on the Deccan, the following statements are made:—that the Patels are entitled to lands and fees, and have various little privileges and distinctions of which they are as tenacious as of their land; that the Kulkarni has lands but oftener fees; that the Deshmukh besides percentages on the revenues collected has various claims in kind, as a pair of shoes every year from each shoe-maker, a portion of ghee from those who make that preparation, &c., &c., that the watchman was paid by a small share of the grain and similar property belonging to each house, which kept him always on the watch to ascertain his fees, whereby he knew all that took place. In the appendix to Mr. Elphinstone's Report is one from Captain Grant, Political Agent at Sátára, which refers to payments in grain or money to Patels and Kulkarnis, called Mushaira and Sirpao. The knowledge of these customary payments was present in 1874 to the framers of the Watan Act; and in such a matter I can hardly refer to a higher authority than the Honourable A. Rogers, then Revenue Member of Council, who gave his reason for proposing the inclusion of customary fees in Section 4 by making an historical statement as follows on the 24th August 1874, when Section 17 was finally settled by the Bombay Legislative Council. "In different parts of the country it was the custom to levy fees and perquisites for service in various ways, sometimes in money and sometimes in kind." I notice too that on the 15th October 1874 when the Bill was passed, the Honourable F. S. Chapman, then Chief Secretary to Government, spoke of it as intended to build up from their foundations the ancient village forms of Government; and one means of doing this was by making the Collector's kacheri a tribunal where the village servants of inferior status, like the Mhárs, could enforce their rights to their customary fees from the rayats.

This look into the past revenue history enables us to find appropriate meaning for Section 17; and fortifies the conclusion we arrive at through the rules for interpreting statutes. The function of the Collector does not extend to the whole watan property but only to what is meant by the words "such payments." It is merely one of commutation of payments of uncertain amount by ascertaining a fixed equivalent therefor, which apparently he may express either in money or kind. There is no warrant whatever in the language of Section 17 for supposing that he could thereby impose new burdens on the landowner in a case like this where the payment being constant already there was nothing to determine. He resembles the Land Commissioners in England under the Tithe Commutation Act or the Copyhold Acts where provision is made for ascertaining the value of such rights as heriots. But though it is not necessary for our decision to interpret the word minutely, I think the addition of the word "recoverable" in Section 17 has reference to Section 81 (though possibly it may be argued that it bars a civil suit, a matter on which I express no opinion); and that

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the word 'land' in Section 3 (4) of the Land Revenue Code, and that the Kulkarni, who is entitled to receive such haks, is in respect thereof a superior holder.

Section 17, Bombay Act III of 1874, is the law which applies to haks such as those in question. The Collector is encountered by the difficulty that in unsurveyed inám villages he cannot tell whether the aggregate of the haks would or would not be more than "equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages," and therefore cannot tell whether in determining under that section the amount of payments recoverable by a Kulkarni, he transgresses the proviso to the section. It is considered, however, that an approximate estimate of the amount that would be payable if the village were a Government village will sufficiently satisfy the proviso, and that such estimate may be based upon general considerations without requiring the detailed particulars obtainable in a surveyed village.

(L. R. No. 575, dated 5th May 1886; *vide* G. R. No. 3786, dated 26th idem.)

10. Section 187 of the Land Revenue Code provides that "all sums declared by * * * any * * * Act * * * at the time being in force to be leviable as * * * an arrear of land-revenue shall be levied under the foregoing provisions. Payments by Inámdárs to Watandárs, of which the amount is determinable by the Collector under Section 17 of the Bombay Hereditary Offices Act, 1874, are so leviable, though the point is not free from doubt. The provision which applies is Section 81 of the last-named Act. It says:—

"All recoveries of profits from land, assessments, emoluments or penalties under this Act may be made as provided by any law for the time being in force relating to the recovery of land-revenue."

It is not very clear what the intended force of the words "under this Act" is. If recoveries under the Act are meant, then there is no provision in the Act concerning the recovery of the payments in question. But it seems that the more probable meaning of the section is that "profits" from land assessments, emoluments, or penalties, *determined or*

what the Collector fixes is the amount which may be recovered by revenue process; he is not to recover more from the Inámdár than is payable in Government villages for the same thing or on the same occasion. Thus the coercive action of the Collector is limited by the customary scale of the country as in some other revenue matters. The Collector's award of commutations appears not to be so final a judgment, as a decision under Section 18. But for the addition of the word "recoverable" I would interpret the word "determine" as was done in *The Queen v. The Land Commissioners of England* where that word in the Copyhold Act, 50 and 61 Vict., c. 73, was held to give finality.

We agree that the plaintiff has no cause of action against the defendants 2 and 3, and in the decree to be made by this Court

JOHN JARDINE.

12th July 1894.

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fixed under this Act" should be recoverable as therein laid down.

(L. R. No. 455 dated 7th April 1883; *vide* G. R. No. 3378, dated 2nd May 1883.)

11. The claim of village officers in inám villages to receive their remuneration direct from the village revenues instead of from the Inámdárs is inadmissible under Section 187 of the Land Revenue Code read with Sections 17 and 81 of the Watan Act. If the Inámdárs decline to pay the remuneration according to scale, steps can be taken according to law to enforce payment. (G. Rs. Nos. 3378, dated 2nd May 1883, 1166, dated 13th February 1886, and 3320, dated 5th May 1886.)

12. The proceedings reported by the Revenue Commissioner, N. D., in his following letter No. 3432-B, dated 29th October 1864, were approved and sanctioned by Government:—

"I have the honour to report, for the information of Government, the settlement I have made of the emoluments of Patels in the Daskroi Táluka of the Ahmedabad Collectorate.

"2. Major Wingate's scale has been taken as the basis of the settlement, with some modifications and additions which are described below.

"3. Major Wingate's system allows an increase of Rs. 10 over the percentage amount fixed according to his scale. As this increase appeared too large in small villages, I have in the Daskroi settlement reduced it to Rs. 5 in all villages the revenues of which are under Rs. 600 per annum.

"4. But while making this decrease in small villages I have allowed, under certain special circumstances, a somewhat higher remuneration than prescribed by the old scale. These circumstances arise from a Patel having heavier work to perform, either in consequence of the villages being situated on much frequented high roads or at a distance from the Mámldár's office, or in consequence of their bordering on foreign territory. The fact of a village having a more than ordinarily large population is also a special circumstance to be dealt with in the same manner. This plan is fair, as it secures additional payment for additional responsibilities, instead of remunerating at an equal rate those who have unequal duties to perform.

"5. The Patel's remuneration is in cash or in land, or in both, and to equalize the value of these receipts the profits of occupancy of land have been taken into account, the amount so calculated being in no case reckoned at more than a sum equal to the assessment fixed by the survey. Thus, if a Patel be in possession of service land assessed at Rs. 25, he is considered as well off as a Patel who receives Rs. 50 from the Treasury.

"6. Of the amounts thus fixed according to principles above mentioned, portions varying from one-fourth to one-half, according to the circumstances of each case, are to be allowed to the Matádárs or Patels and to co-sharers who assist the Patels. But in no case are the Matádár's present receipts to be exceeded at the expense of the Patel's.

"7. If in any case the present emoluments of the Patel exceed the amount fixed as above described, so much of the cash receipts as equals the excess is reduced, or, if there be no cash, a portion of the land of the same amount is assessed. This reduction is made from the 'Mukhi' portion of a Patel's holdings, which, as having been granted

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by the British Government for the performance of Police duties, can without objection from any one be increased or decreased as may be deemed proper. In cases where the existing emoluments are less than the scale, the deficiency is made up in cash.

"8. I have also, with reference to my communication No. 1525A, dated the 23rd May 1864, noted in the margin, to report the settlement of the contingent allowance (to be called the chora kharch)* to be given to Patels in lieu of, and out of the savings from, the malviro payments abolished. This contingent allowance has, as a rule, been fixed at double the amount given to Taláti for stationery under Wingate's scale, but in villages of the kind referred to in paragraph 4, it has been fixed at three times the Taláti's allowance. This payment will be defrayed, as already stated, in the repair, lighting and clearing of the village choras, and in whatever further expenses connected with the village the body of Patels may desire. Patels will not be liable to account for the expenditure."

(G. R. No. 4646, dated the 23rd November 1864.)

13. The rules regarding the remuneration of Patels and Kulkarnis given at pages 347—357 of the Survey and Settlement Manual are inapplicable to Gujarát, where the rules sanctioned in Resolution No. 4646, dated 23rd November 1864, are still in force. The Governor in Council would, however, impress on the Collectors the desirability of fixing the remuneration of the Watandár officers as soon as a revision settlement is introduced. (G. R. No. 1822, dated 11th March 1893.)

14. The Collector's signature should be held sufficient by the Accountant General's Department for admitting statements of fixed payments to district and village hereditary officers, but the Collectors should distinctly understand that they are really responsible. (G. R. No. 6085, dated 4th December 1871.)

15. Notice fees and fines for unpunctual payment of instalments should not be taken into calculation in fixing village officers' emoluments. (G. R. No. 5304, dated 15th September 1876.)

16. The following are the rules for dealing with the village officers' service lands:—

Definitions.

(1). "Watan land emoluments" consist of the difference between the original judi or Government charge on the whole lands of the watan and the full survey valuation or assessment thereof for the time being.

(2). The appropriated amount of the watan land emoluments consists of the sum imposed in the form of an addition to the original judi to

* The contingent allowances called chora kharch sanctioned by Government Resolutions No. 4646, dated 23rd November 1864, and No. 3040, dated 30th August 1867, were assigned to each village separately. Patels were exempted from liability to account for the expenditure of them, but the rule referred to in paragraph 13 of the letter of the Committee appointed to report on the audit of cash allowances, sanctioned by Government Resolution No. 3517, dated 9th August 1861, to the effect that if village petty charges are not disbursed within the year in which they are due they are forfeited, is obviously applicable to the chora kharch allowances. (G. R., F. D., No. 4042, dated 12th November 1883.)

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meet, so far as it can; the remuneration of the officiator as fixed according to the orders of Government from time to time.

(3). The unappropriated watan land emoluments consist of that portion of the difference, if any, between the total watan land emoluments at any time and the amount appropriated at any time for the remuneration of the officiator according to the last paragraph.

Rules.

(1). The mámul or ancient recorded judi, or the highest recorded ancient payment, whichever may be the higher of these two sums, shall be considered to be the ultimate limit of judi or Government charge upon the service inám watan lands of village officers exclusive of any charge which it may seem fit to Government to impose for the remuneration of the member or members of the watan appointed by Government to officiate, so long as such charge on account of remuneration of service together with the original judi does not exceed the survey assessment for the time being of the whole lands of the watan.

(2). The watan emoluments are liable for the payment of the officiator up to their whole survey valuation as at any time fixed; and any portion of this valuation in excess of the requirements at any time for the payment of the officiator may be appropriated at any future time if it is in the opinion of Government necessary to increase the sum payable to the officiator.

(3). In Government letter No. 331* of 26th January 1860 it was decided that in commutation of enquiry by the Inám Commission into the title on which unappropriated watan land emoluments were held, additional judi of one-half the survey assessment for the time being should be levied on the unappropriated amount. It is now clearly ruled that upon its being necessary to add to the remuneration of the officiator or officiators, all such excess watan land emoluments are liable up to the full survey assessment for the time being. It is, however, laid down that the above half judi is not liable to increase on account of the unappropriated watan land emoluments for the time being attaining an increased valuation under a revision of assessment; but it is also to be understood that such judi may be lowered owing to a decrease in the value of the unappropriated watan land emoluments rendering the judi formerly fixed thereupon more than half their value for the time being, or as above provided owing to a portion of the excess watan

* Government letter No. 331, dated 26th January 1860, is transcribed below for ready reference:—

“In the rules framed by Major G. Wingate for the settlement of the emoluments of Hereditary Patels and Kulkarnis, it was provided that the proceeds of a watan in excess of the amount required by scale to remunerate the officiating mem-

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land emoluments being at any future time appropriated for the payment of the officiator.

(4). The scale of percentage remuneration adopted hitherto for Patels shall continue in future. But the increased chávdi and potgi or extra allowance proposed for Patels by Colonel Francis in his letter No. 1513 of the 24th September 1874 and sanctioned by Government Resolu-

bers should lapse to the State on the change of present incumbents if the excess were in cash, and should be liable to scrutiny and subject to the final decision of the Inám Commission, if in land bearing a greater assessment than Rs. 20.

2. But as it is proposed to supersede the detailed enquiries of the Inám Commission by a summary settlement of alienated revenue, this last provision is no longer applicable.

3. At the same time the principle already applied must be adhered to as closely as possible for the remainder of the thirty years for which the village officers may have presumed that their emoluments are fixed in connection with the guarantee of rate of assessment for the same period.

4. The only point, therefore, in which His Lordship in Council conceives that any change should be made in regard to settlements already concluded and sanctioned, is the enquiry of the Inám Commission, to which the watan are to be subjected according to the rules.

5. His Lordship in Council has been pleased to decide that, in substitution of this enquiry, the excess of land remaining after providing for the officiator's remuneration shall be taxed by a judi to the extent of one-half of such excess, the whole excess, however, being confirmed to the holders as part of the watan.

6. In other respects, the settlements already made will remain unaltered during the thirty years for which the assessment of the district is guaranteed.

7. The portion of the watan held in excess of the officiating member's emoluments will be liable to no further contribution within this period, except in the event of the amount of arable land in the village being added to, and the kamál or limit of assessment being thus increased either by the lapse of ináms or by bringing under cultivation new tracts of jungle land.

8. The emoluments of the officiator being revised decennially the rest of the watan will, if necessary, come under revision at the same time, but if the increase from the causes noted in preceding paragraph do not amount to 10 per cent., no alteration should be made in respect to the amount of judi imposed on the watan lands.

9. All excess below Rs. 20 was exempted from enquiry by the Inám Commission, and, in districts already settled, the tax imposed by paragraph 5 of this letter should not be imposed in cases in which the excess does not amount to Rs. 20.

10. But as the cause of this reservation no longer exists, His Lordship in Council is of opinion that in all settlements, now being made, or which will in future be made, the restriction should no longer hold good; and watan, in which the excess is below Rs. 20, will be treated in the same way as others.

11. Another modification which it appears to His Lordship in Council should be made in future settlements, is to change the order in which the different items composing a watan are taken into calculation in providing for the remuneration of the officiating members. Now that the excess is not to be enquired into by the Inám Commission, the order of calculation should be altered.

12. Thus the whole of the land will be first assessed for the remuneration of the officiator—if this do not suffice the Purbharrá Haks (estimated as before) and then the cash from

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tion No. 6141. dated 1st November 1875, should be adopted.*

the Treasury will go to make up the deficiency—the balance, if required, being as hitherto made up by payments from the Treasury.

13. By these means the State will receive the benefit of the lapse of cash allowances on the change of present incumbents, so as to make up, to some extent, for the extra amount which has to be contributed from the Treasury.

14. These principles of settlement should be applied to the remaining maháls in Collectorates in which the former rules have already been partially acted on. In other Collectorates in has already been determined to proceed on a basis different from that on which settlements were effected at a time when it was proposed to try the claims of village hereditary officers by the tribunal of the Inám Commission."

The words "cash allowances" in paragraph 13 of the foregoing letter should be understood to include both cash allowances payable from the Treasury and cash compensation for abolished Purbharra Haks. (G. L. No. 832, dated 2nd March 1860.)

The settlement referred to in paragraph 1 of Government letter No. 331 of 26th January 1860 has been generally adopted in the settlement of village officers' cash haks in the Deccan and Southern Marátha Country.

2. But it appears that a deviation from the general rule was recommended by Major Wingate so far as regarded the Marátha districts (as distinguished from the Kánarese districts) of Sholápur. The recommendation appears to have received the sanction of Government in their Resolution No. 7421 of the 23rd December 1853, the modification of Major Wingate's proposals ordered in the concluding paragraph thereof being limited to the Kánarese districts.

3. On the principle laid down in the 3rd paragraph of the Government letter of the 26th January 1860 above quoted, the Governor in Council would leave this portion of the settlement untouched until the haks of village officers are revised on the next revision of assessment. It was determined that the Marátha districts of Sholápur should be treated differently from other districts, in respect to the cash portion of village officers' emoluments, and without enquiring into the principles on which the distinction was drawn, the Governor in Council thinks that it must be upheld for the term of the survey settlement, and that their districts must continue to be treated exceptionally.

(G. R. No. 2173, dated 14th June 1860.)

* This is as follows :—

Population.		Potgi.	Chávdí expenses
From	to		
1	100	2	2
101	200	3	3
201	300	4	4
301	400	5	5
401	500	6	6
501	600	7	7
601	700	8	8
701	800	9	9
801	1,000	10	10
1,001	1,200	13	13
1,201	1,300	14	14
1,301	1,400	15	15
1,401	1,500	16	16
1,501	1,600	17	17
1,601	1,700	18	18
1,701	1,800	19	19

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(5). As regards the Kulkarnis, the percentage scale on which they are already paid being found sufficient should be retained both for salary and stationery allowance, as sanctioned in Government Resolution No. 6141, dated 1st November 1875, paragraph 4, with the modification as regards increased potgi or extra allowance sanctioned in Government Resolution No. 991, dated 15th February 1876.*

(6). In towns and very large and troublesome places an additional payment may be awarded to officiating Patels. At present under Wingate's rules an additional allowance of Rs. 10 is awardable to Patels of large places. It is now provided that there shall be three additional classes of such special allowances; the four classes will then stand as follows:—

			Rs.
Class IV	...	...	10
" III	...	...	20
" II	...	...	30
" I	...	...	50

Population.		Potgi.	Chavdi expenses.
From	To		
1,801	2,000	20	20
2,001	2,200	23	23
2,201	2,300	24	24
2,301	2,400	25	25
2,401	2,500	26	26
2,501	2,600	27	27
2,601	2,700	28	28
2,701	2,800	29	29
2,801	3,000	30	30
	and upwards		

(G. R. No. 6141, dated 1st November 1875).

Note.—In Government Resolution No. 5304, dated 15th September 1876, it was ruled that in cases in which a Patel's emoluments would be lessened in consequence of potgi being calculated on population instead of on revenue, a special allowance to the then officiators might be made so as to bring the new up to the old allowance, and that the oversight by which Patels' emoluments had continued to be calculated on the māmūl rates beyond the time of existing officiators, for which period only its continuance had been sanctioned by Government, should not be allowed to operate to the prejudice of the interests of the State.

* This is as follows:—

Revenue of villages ranging from		Scale payment.	Potgi.	Total allowance.
		Rs.	Rs.	Rs.
Rs. 801 to 900	... ..	45	10	55
" 901 to 1,000	... ..	50	10	60
" 1,001 to 1,100	... ..	54	10	64
" 1,101 to 1,200	... ..	58	10	68
" 1,201 to 1,300	... ..	62	10	72
" 1,301 to 1,400	66	6	72
" 1,401 to 1,500	70	2	72
" 1,501 to 1,600	74	...	74

(G. R. No. 991, dated 15th February 1876.)

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(7). The whole emoluments of village officers, whether consisting of salary, potgi or extra allowance, special allowance, or stationery allowance, are payable from the watan emoluments so far as they are capable of meeting these charges.

(8). On revision of assessment, all service inám lands of every head, whether those of village officers or servants, and whether held by officers or others, shall be liable to pay local one anna cess on their survey valuation in common with all other lands.

(G. R. No. 7651, dated 28th December 1877.)

Note.—In a Resolution dated 21st June 1881, the revision survey rates in certain villages were approved by Government, but the introduction of those rates was deferred till 1883-84, and Government directed that a temporary settlement should be in force, under which the old rates of assessment plus an addition of 3 annas in each rupee of the assessment were to be levied. It was held in Government Resolution No. 3377, dated 2nd May 1883, that this temporary settlement could not be regarded as the revision of assessment contemplated in Rule 8 of the foregoing rules.

—17. The orders in Government letter No. 331, dated 26th January 1860, are far from clear in expression, but they distinguish settlements already made from those to be made in future. In the former the principle previously applied was to be adhered to,—that is, excess above Rs. 20 was to be (not scrutinized but) taxed with half judi. As to excess of Rs. 20 and under, no change was to be made for a definite time. “In other respects the settlements made will remain unaltered during the 30 years for which the assessment of the district is guaranteed.” Clearly the exemption of excess of Rs. 20 and under ended with the 30 years’ guarantee. This being decided, the following proposals made by Colonel Anderson, Survey and Settlement Commissioner, are to be adopted, *viz.*, (1) at the end of the 30 years’ settlement to charge excess of Rs. 20 and under half judi at the *old* and not the *revised* rate of assessment, which is according to the orders of 1875, and (2) in the few cases where the excess at the time of original settlement is not known, to put on as judi at one quarter of the present excess, because it is sure to be more than the old excess. (G. R. No. 5994, dated 11th October 1881.)

18. The principle laid down in Government Resolution* No. 813, dated 25th February 1869, should be followed in disposing of the half judi leviable on the surplus profits of the watans of the village officers in alienated villages after provision has been made for the remuneration of the village officers according to scale. (G. R. No. 3953, dated 16th May 1885.)

* Memorandum from the Revenue Commissioner, S. D., No. 454, dated 9th February 1869—Submitting for orders a letter from the Collector of Kaládgi relative to the remuneration of Patels and Kulkarnis as fixed by the Survey Department in the lately surveyed alienated villages noted in the margin; and Chondi, Nagore, Baelibhani.

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19. A question was raised by the Commissioner, S. D., whether the rules issued by Government from time to time on the subject of imposing half judi on the unappropriated emoluments of watan lands held by Patels and Kulkarnis, were applicable to the pátílki watan which had been granted by the British Government to a certain person in March 1832 for repopulating a village and which was now held by the Patel of the village. The Commissioner observed that the imposition of half judi on unappropriated watan land emoluments, after providing remuneration for the officiator for the time being, according to the sanctioned scale, was, as explained in Government letter No. 331, dated 26th January 1860, in substitution for detailed enquiries and final settlement by the Inám Commission as to the rights of holders of watans to hold such unappropriated watan land emoluments free of any tax, and that as the pátílki watan in question had been granted in 1832 by the British Government it could not properly be argued that there was any defect in the title of the holder to all the unappropriated watan land emoluments free of any tax. Accordingly, he was of opinion that the rules and standing orders on the subject of imposing half judi were not applicable to the case in question. This opinion has been concurred in by Government. (G. R. No. 9481, dated 3rd December 1892).

20. A copy of the following memorandum from the Revenue Commissioner, N. D. (No. 1906, dated 20th June 1865), was forwarded to the Revenue Commissioner, S. D., with a request that when any revision of Patels' emoluments in the Deccan took place, the plan adopted in Khándesh might be extended to the Collectorates in the Southern Division.

"In reply to the Chief Secretary's Memo. No. 2465, dated 12th instant, the Revenue Commissioner, N. D., begs to state that the Patels in the surveyed districts of Ahmedabad, where alone the revision of the village expenses in respect to Gujarát has been undertaken, the principle is to grant the Patels a contingent allowance at twice the amount given to Talátis for stationery under the Wingate's scale. In villages under peculiar circumstances the allowance is fixed at thrice the amount.

"2. In Khándesh the Patels get the same allowance as the Kulkarnis according to the Wingate Scale."

(G. L. No. 2777, dated 29th June 1865.) ✓

recommending, with reference to the question therein asked regarding the disposal of the one-half judi proposed to be levied by the Survey Department on the difference between the original value of the land and the judi the Patels and Kulkarnis now pay in those villages, that in alienated villages Government be pleased, for the reasons explained by him, to forego the profit they might in these cases claim, and that the judi be remitted to the Patel and Kulkarni, or rather to the watan in each case.

RESOLUTION.—No judi should be levied in such cases.

(G. R. No. 813, dated 25th February 1869.)

Vide G. R. No. 4046, dated 23rd November 1864, para. 8.

Vide para. 4 of the Resolution quoted above.

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21. As regards the fluctuating allowances to Patels and Kulkarnis, on no account must any attempt be made to alter or evade the obligation to fix every ten years the scale of emoluments according to the average of the preceding five years. The scale may be modified after a revision of the general assessment of a district, but not during the currency of a settlement made for thirty years. The official emoluments should be revised every ten years on the average of the five preceding years, but no alteration of scale will be made except at a general revision of the assessment of the district. The appropriateness of the scale will then come under review; for all intermediate revisions no alteration of scale will be necessary. Alienated shares of revenue should follow the same rules as Patels' and Kulkarnis' fluctuating allowances. (G. R. No. 1603, dated 21st April 1868, and No. 3814, dated 13th October 1868.)

22. Rules for fluctuating payments do not apply to amals held under summary settlement. (G. Rs. Nos. 2740, dated 17th July 1868; and G. R. No. 3977, dated 20th June 1882.)

23. Government Resolution No. 2740, dated 17th July 1868, cannot legally be applied to a title formally adjudicated on and rendered transferable and heritable by recognition under Section 4 of Act II of 1863. There is nothing in the Act to indicate that it was the intention of the Legislature to change the subject-matter of the property settled. (L. R. No. 699, dated 12th June 1893; *vide* G. R. No. 4341, dated 16th *idem*.)

24. It is clear that Government Resolution No. 1603 of 21st April 1868 does not modify the rule laid down in Government Resolution* No. 199, dated 18th January 1858, regarding the commutation every ten years of the emoluments of Patels and Kulkarnis and of alienated shares of revenue. The intention of the orders conveyed in paragraph 3 of the former Resolution, which was clearly explained in a subsequent Resolution No. 3814, dated 13th October 1868, was that the remuneration of Patels and Kulkarnis should be fixed every ten years in accordance with the rule laid down in the Resolution of 1858, but that if any alteration in the scale fixed at the survey for the calculation of the remuneration of these village officers was deemed to be necessary, it should be effected only at the time of a general revision of the assessment of a district or taluka.

* "His Lordship in Council is fully convinced of the general expediency of the course recommended by you for adoption, which would effect the commutation of the fluctuating annual payment at present made on account of village and district officers' village expenses and alienated shares of revenue for fixed amounts calculated on the average receipts of the last five years, but subject to modification when the claims of the recipients are finally adjudicated by the Alienation Department, or after ten years. Government direct that the proposed commutation be at once carried into effect."

(G. R. No. 199, dated 18th January 1858 (para. 2).)

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All payments of alienated shares of revenue which include saranjám amals should be regulated by the rule laid down in the Resolution of 1858. (G. R. No. 9688, dated 1st December 1885.)

25. A contingent allowance (equal in amount to that allowed to Kulkarnis by Wingate's scale for stationery should be given to Patels for lighting and repairing chávdis and for other miscellaneous expenditure. It is to be given to Patels in Karnátik as well as in the Deccan.

The allowance is to be given when the scale of remuneration comes under revision, either on or after the introduction of the survey assessments.

Patels in lapsed villages are to receive the allowance when their emoluments are being settled for the first time.

(G. R. No. 3904, dated 14th August 1871.) ✓

26. In Kanara each hamlet should have a separate Patel in all cases in which the Collector is satisfied that the revenue and police administration of a hamlet cannot be properly carried on by the Patel of the parent village.

In villages the revenues of which are under Rs. 100, a fixed allowance of Rs. 5 is to be granted, in addition to the percentage on revenue. In other villages the scale should be as follows:—

When the revenue is between	Rs. 100 and 200	Rs. 4.
Ditto	" 200 " 300	" 3.
Ditto	" 300 " 400	" 2.
Ditto	" 400 " 500	" 1.

When the revenue is below Rs. 100, nothing is to be granted beyond the fixed allowance of Rs. 5. In villages of which the revenue is between Rs. 100 and Rs. 500, there is to be allowed a percentage of 3 per cent. in addition to the fixed allowance, and in those with revenue exceeding the latter amount, that percentage alone without any fixed allowance. His Excellency in Council will, however, not object to increase the fixed allowance to Rs. 10 on special report from the Collector in cases in which it may be shown that the work of the Patel, in consequence of the position of his village or other circumstances, will be so hard as to occupy so much of his time as to preclude him from attending to his fields or otherwise earning a livelihood.

(G. R. Nos. 5611, dated 8th November 1871, and 402, dated 27th January 1872.)

27. The remuneration of the Shánbhogs or Kulkarnis in Kánara should be fixed at a maximum of Rs. 150 and a minimum of Rs. 120 per annum. (G. R. No. 3994, dated 12th July 1873.) ✓

28. In calculating the sums due to Patels and Shánbhogs in Kánara, fractions of rupees should be omitted. (G. R. No. 4904, dated 30th August 1873.)

29. The office of Shanbhogs in Kánara is not to be considered hereditary, but the Collector should

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select the best man available and appoint him to hold office during good behaviour. The Collector will no doubt show as much consideration as possible to the members of those families who have formerly held office. (G. Rs. Nos. 5611, dated 8th November 1871, and 3994, dated 12th July 1873.)

30. It is extremely inadvisable to remunerate Patels and other village servants partly by the remission of assessment to tree-tax on liquor-producing trees enjoyed by them, both on account of the naturally fluctuating value of the remission and the probability of the exemption affording opportunities for the practice of fraud. (G. R. No. 4102, dated 19th August 1872.)

31. The following principles should be regarded in dealing with the question of the remuneration of village officers in districts in which revised settlements have been carried out :—

- (1) That the officiators, those who do the work, should receive the full amount to which they would be entitled under the established scales.
- (2) That the whole of the watan lands are liable by law (Section 23 of Bombay Act III of 1874) for the remuneration of the officiators.
- (3) That it is bad policy to avoid present liability by the promises of permanent settlement, especially when half the benefit of that settlement will go to the non-officiators.

(G. L., R., A. & C., No. 415, dated 31st May 1877; *vide* G. R. No. 6412, dated 26th October 1877.)

32. The following is the scale of allowance to be paid to Village Accountants and Patels for collecting the one-anna Local Fund Cess :—

	Kulkarni.			Patels.		
	Rs.	a.	p.	Rs.	a.	p.
On collections exceeding Rs. 5 and not exceeding Rs. 10	...	0	4	0	0	2
On collections exceeding Rs. 10 and not exceeding Rs. 25	...	0	8	0	0	4
On collections exceeding Rs. 25 and not exceeding Rs. 50	...	1	0	0	0	8
On collections exceeding Rs. 50 and not exceeding Rs. 75	...	1	4	0	0	10
On collections exceeding Rs. 75 and not exceeding Rs. 100	...	1	8	0	0	12
On collections exceeding Rs. 100 and not exceeding Rs. 125	...	2	0	0	1	0
On collections exceeding Rs. 125 and not exceeding Rs. 150	...	2	8	0	1	4
On collections exceeding Rs. 150 and not exceeding Rs. 175	...	3	0	0	1	8
On collections exceeding Rs. 175 and not exceeding Rs. 200	...	3	8	0	1	12
On collections exceeding Rs. 200 and not exceeding Rs. 225	...	4	0	0	2	0

and so on.

When a Taláti has more than one village, the payment is to be calculated on the total collections made in all the villages comprised in his saja; but

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this rule is not to be enforced in the case of khots. A khot who has more than one village should be allowed remuneration according to the scale sanctioned for each village separately. (G. Rs. Nos. 6183, dated 15th December 1870, 1650, dated 22nd March 1873, 2719, dated 12th May 1875, and 3497, dated 21st June 1875.)

The payment of percentage to village officers on collections of Local Funds sand and quarry fees is sanctioned.

The remuneration to be allowed to village officers for collecting the Local Funds Cess should be calculated not on the number of days each Patel or Taláti performs work in the village from which the cess is collected, but on the gross amount each collects. (G. R., F. D., No. 3143, dated 15th September 1879.)

33. The emoluments of Patels, Kulkarnis or hereditary village accountants and Talátis or stipendiary village accountants for the collection of the Local Fund Cess should be fixed for ten years on the average of previous five years' collections of the cess. These orders do not apply to Sind and the Kánara District.

G. Rs. Nos. 2847, dated 4th June 1878, 3931, dated 5th August 1878, 4964, dated 20th September 1880, and 163, dated 10th January 1881.)

34. Remuneration is not to be granted to village officers in alienated villages for the collection by them of the Local Fund Cess. It is for the alienees and not Government to remunerate them for collecting the cess. (G. Rs. Nos. 2057, dated 20th April 1880, 5177, dated 20th September 1880, and 349, dated 18th January 1881.)

35. The rules for the assessment of the Local Fund Cess in alienated villages are given in Section 7 of (Bombay) Act III of 1869, and the following section provides that the cess shall be levied 'in the same manner and under the same provisions of law as the ordinary land revenue,' that is to say, the cess is leviable from the superior holders of alienated villages (fixed in accordance with the said rules) as the ordinary land revenue is. The same section, (Section 8) further provides that the superior holder is entitled to the same assistance in recovering the cess from the inferior holders to which he is lawfully entitled in recovering his dues on account of rent or land revenue.

The superior holder may receive payment of the cess direct from his tenants or inferior holders without the intervention of the village officers, for there is no provision of law which requires such payments to be made through the village officers. Section 85 of the Land Revenue Code refers to payment of dues on account of rent or land revenue and does not apply to payment of Local Fund Cess.

The superior holders are not bound to employ the village officers as their agents for collecting the cess ;

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neither are the latter bound to collect the same, as such collection is no part of the duties attaching to their hereditary office.

As regards unalienated villages, the cess must necessarily be levied from the occupants of survey numbers and by such agency as Government may appoint for the purpose of collection. It appears that village officers are employed for this purpose and are paid a percentage on their collections; but it is, of course, open to Government to appoint or employ whatever agency may appear most suitable.

Inámdárs are bound by the terms of their sanads to pay the amount due on account of Local Fund Cess from their villages, and they are free to employ whatever agency they may see fit in collecting the same from the rayats; but the expense of collection constitutes no lien either on the Local Funds or on Government. All that the Inámdárs are entitled to is the assistance in collecting the cess to which they are entitled under Section 86 of the Land Revenue Code in collecting their dues. If they wish to employ the village officers as agents to collect the cess, the latter will be quite justified in refusing to act unless they are paid reasonable remuneration.

The Inámdárs have no cause of complaint, because whatever amount of Local Fund Cess they pay in to Government they recover, or can recover, from their tenants. So far they pay nothing themselves towards the undertakings effected by the Local Fund Committee for the benefit of the whole district. There is, therefore, no hardship whatever if the Inámdárs have to employ an agency in expecting them to pay for it themselves. (L. R. No. 568, dated 18th May 1882; *vide* G. R. No. 3761, dated 10th June 1882.)

36. By Section 8 of the Bombay Local Funds Act, 1869, Local Fund Cess is directed to be levied in the same manner and under the same provisions of law as the ordinary land revenue. In the case, therefore, of an alienated village the cess is to be levied like the ordinary land revenue from the superior holder of that village, *i.e.*, from the Inámdár. The agency to be employed in the collection of the cess from Inámdárs, as well as from all other persons directly liable to Government for its payment, is left by the section to the discretion of the Collector, and he exercises this discretion by employing for the purpose the same Revenue officers who collect the ordinary land revenue. In unalienated villages the village officers are so employed.

By Section 44, clause (b), of the Bombay Local Boards Act, 1884, "the net proceeds (after deducting the expenses of assessment and collection) of the cess levied under the Bombay Local Funds Act, 1869," have to be credited to the Local Fund. This enactment authorizes the deduction from the gross proceeds of the cess of the cost of its collection.

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The latter part of Section 8 of the Bombay Local Funds Act, 1869, authorizes Inámdárs to recover the cess, which they pay to Government, from their tenants, and for this purpose entitles them to the same assistance which the law (*i.e.*, Sections 86 and 87 of the Land Revenue Code) allows them in respect of the "recovery of their dues from their tenants and occupants under them."

It appears that this recovery of the cess from the tenants is made in alienated villages by the village officers on behalf of the Inámdárs.

There is no authority in the law for charging the cost of recovering the cess for an Inámdár from his tenants to the Local Fund, and the Local Boards would have a just cause of complaint if any such deduction were made by the Collectors from the gross proceeds of the cess.

As pointed out by the late Mr. Cordeaux in his No. 568 of 18th May 1882, the law really imposes no burden on Inámdárs on account of the Local Fund Cess, because whatever they pay in the way of cess they are entitled to recover again from their tenants. They escape, therefore, very lightly when nothing more than the cost of this recovery from their tenants falls upon them.

(L. R. No. 1557, dated 3rd December 1885; *vide* G. R. No. 10501, dated 31st *idem*.)

37. Remissions granted on the introduction of the revised settlements under Government orders relating to the gradual introduction of revised settlement rates should be taken into calculation, *i.e.*, not deducted, when revising the remuneration payable to village officers for the collection of Local Fund Cess. (G. R. No. 1822, dated 11th March 1893.)

38. Remuneration to village officers for collecting Public Works Irrigation Revenue is to be calculated and paid precisely as if the revenue so collected were the ordinary revenue of the village, that is to say, it will merely form one of the items on the aggregate of which the remuneration is calculated from time to time according to Wingate's scale.

Whenever irrigation revenue raises the revenue of a village 15 per cent. over what it was before, the Commissioner should revise the rates of remuneration to the village officers, although the term of ten years for which they have been fixed under Wingate's scale has not expired. (G. R. No. 3635, dated 28th June 1875.)

39. The following are the rules for the remuneration of village officers for collecting irrigation revenue:—

Rule 1.—If, at the expiration of five years from the time water for purposes of irrigation is made use of, the five years' average amount of irrigation receipts raises the revenue of a village 15 per cent., then the revision of the scale remuneration

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fixed for ten years should take place before the expiry of the term.

Rule 2.—In unsurveyed villages, where the remuneration of village officers has not been fixed for ten years on an average of five years' receipts, the remuneration on irrigation revenue should be paid in the same way as the remuneration on land revenue is paid. In calculating this remuneration irrigation revenue and land revenue should be added together, and the remuneration calculated on the single sum thus obtained.

Rule 3.—In alienated villages where Government do not derive any land revenue, the remuneration on irrigation revenue should be calculated on that revenue alone.

Rule 4.— * * *. After the expiration of the term for which village officers' remuneration has been fixed, when a new settlement is being made for the next ten years, the Public Works revenue will form one of the items on which the remuneration is to be calculated.

(G. R. No. 769, dated 4th February 1876.) ✓

40. Remuneration should be given to village officers for collecting irrigation revenue although the five years' average of irrigation receipts may not have raised the revenue of the village 15 per cent. (G. R. No. 2457, dated 8th May 1879.) ✓

41. Irrigation revenue should be added to land revenue and the remuneration of village officers calculated upon the total. The grant of contingent allowance seems unnecessary in respect of the collection of irrigation revenue. (G. Rs. Nos. 177, dated 8th January 1887, and 6777, dated 11th October 1888).

42. In Government Resolution No. 1861, dated 5th June 1863, it was decided that the Patel should receive a quarter of an anna and the Kulkarni half an anna on each rupee of chauthai and nazarána levied from Kádím Inámdárs, and these rates were in Government Resolution No. 1654, dated 16th March 1876, extended to all items of land revenue derived by Government from alienated villages. Remuneration should be paid at the same rates for the collection of irrigation revenue in alienated villages. (G. R. No. 2675, dated 28th March 1884.)

43. The remuneration for the village officers of Sátára should be calculated according to Rose's scale, which is the one in force in that district, on the whole revenue, that is, land and irrigational revenues put together. (G. R. No. 2532, dated 18th April 1882.)

44. The allowances of Patels and Kulkarnis

* Vide Clause V of the Rules of 25th June 1858, page 96 of Jacomb's Circular Orders. who are hereditary officers are not to be treated in the light of "salaries or service emoluments other than watans"* and

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written off if not claimed for two years. They should be retained in the books for six years. (G. R. No. 5453, dated 15th October 1880.)

45. Remuneration should be granted to village officers entrusted with the duty of collecting the tax leviable under the Bombay Highway Act, 1883, at the rate at which such officers are paid for collecting Local Fund revenue within their charges. (G. R. No. 2266, dated 15th March 1884.)

46. Taláti in the Thána District who may be entrusted in addition to their own work with the duty of collecting the revenues of izáfat villages under Government attachment situated in the neighbourhood of their sajas should be remunerated at the rate of Rs. 2 per cent. (G. R. No. 1624, dated 24th February 1885.)

47. The payment of chávdi or contingent allowance to village officers should be regulated according to the rules in force as regards the disbursement of remuneration to them, *i.e.*, the allowance may be retained in the accounts for a period of six years and the arrears subjected to the usual deduction rules. (G. R. No. 527, dated 21st January 1887.)

48. Assistant and Deputy Collectors are authorized to sanction the payment of arrears of chávdi and contingent charges for village officers. (G. R. No. 1037, dated 7th February 1891.)

49. The following rules for the collection of forest revenue by village officers in the Presidency proper and for the payment of remuneration to them came into force from 1st April 1887. The rules are applicable to all forest revenue, including grazing fees:—

I.—When the agency of village officers is in future employed in the collection of forest revenue they shall be remunerated by a deduction from the gross revenue collected at the time it is made over by them to Forest officers and at no other time.

Sums paid for grass reserves, &c., and not passing necessarily through the village books should not carry remuneration to village officers.

II.—The rate of remuneration payable shall be 6 pies in the rupee to the Patel and 9 pies in the rupee to the Kulkarni. In calculating the amount of remuneration due to any village officer, fractions of a rupee above eight annas shall be regarded as one rupee; all others shall be neglected.

III.—Village officers shall issue passes or grant receipts for revenue received from pass-books (in counterfoil, each leaf of which shall be numbered consecutively,) supplied to them by the Forest Department after entering the particulars in the counterfoils. When the passes are issued, the village officers shall take the signature of the persons to whom passes are issued on the counterfoils.

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IV.—The collections made by the village officer shall be accounted for to the Forest officer when on his rounds, or when the village officer calls on the Forest officer for the necessary chalang. The village officer may accumulate his collections for a month, but not for a longer time. The Forest officer shall receive the money due from the village officer or give to the village officer a chalan for the full amount entered in the counterfoils, less the remuneration due to the village officer.

V.—The Forest officer, on receiving the amount or giving the chalan, shall obtain a receipt from the village officer for the remuneration deducted in the following form :—

Receipt for remuneration due for the collection of Forest Revenue by the officers of Village Taluka _____, District _____, from 188 to _____ 188 .

Name of Village.	Date of Collection.	Gross amount collected.	Remuneration due.		Net amount to be paid into Treasury.	Remarks.
			Rate.	Amount.		

Received Rs.

Date

Patel,

Received Rs.

Date

Kulkarni.

VI.—If in any village any difficulty be felt in obtaining the countersignature of the officers of the Forest Department, the Conservator may, after satisfying himself of the difficulty, authorize the Treasury or Sub-Treasury Officer concerned to receive forest revenue collected by village officers without the countersignature on the chalan by officers of the Forest Department. The officer receiving the money should see that the calculation of the remuneration is correct, and should send the chalan and the receipt for remuneration to the Range Forest Officer in whose accounts the receipts of such village are accounted for.

VII.—In the accounts kept by the Forest Department the gross amount of revenue collected shall be credited and the remuneration paid be debited to the appropriate heads of account.

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VIII.—At the end of each month the Divisional Forest Officer shall, as prescribed in Section 143 of the Forest Code, draw a cheque for the amount of remuneration paid by himself and his subordinates during the month to be credited at the Treasury by transfer to Forest Remittances.

IX.—When revenue collected by village officers is refunded, the remuneration paid to the village officers for its collection need not be recovered unless the village officers are to blame in collecting it.

X.—The counterfoils of all exhausted pass-books shall be made over by the village officers to the Forest Department for record in that department.

XI.—Forest officers shall, occasionally, on their rounds, collect, if possible, passes granted by village officers and compare them with the corresponding counterfoils.

(G. Rs. Nos. 1511, dated 11th March 1887, and 565, dated 19th July 1887.)

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PART III.—GADKARIS.

1. Shortly after Mr. Rose became Collector of Sátára, that officer issued a circular, dated 3rd May 1855, ordering all Gadkaris'* holdings to be continued during the lifetime of existing incumbents and directing that afterwards they were to be made khálsát. Up to 1st May 1862 the holdings of 373 Gadkaris had consequent on that circular lapsed. There remained 1,191 Gadkaris. The majority of these were of ancient origin. On 8th September 1862 the Collector, Mr. Chapman, recommended that the fairest way of disposing of their case was to at once dispense with all service, to stop all cash payments, and to continue their holdings at half their assessment,—that is to say, on the terms laid down in Government Resolution No. 2606, dated 1st June 1861, for the disposal of Watandárs whose services though perhaps formerly of use are now not required either by Government or the community. Government considered the principle of the settlement proposed very fair as regards the rank and file, but directed that any special case which was not clearly one of service should be specially reported by the Collector, and that the half assessment was to be allowed only to the present incumbents and the heirs of present or late incumbents being their lineal descendants. It was not intended to exclude the heirs of Gadkaris whose holdings had already lapsed since the date of Mr. Rose's promulgation from the benefits of the settlement, but to prevent claims being put forward hereafter on the part of collateral relations and those who might have voluntarily thrown up their land or had been dispossessed. The hereditary title is to be applied only to the heirs of holders at the time when Mr. Rose in 1855 declared the holdings to be restricted as life-grants, and the sole effect of the orders passed by Government is to make the holdings continuable to the lineal descendants of those holders. (G. Rs. Nos. 541, dated 21st February 1863, 1111, dated 10th April 1863, 2109, dated 27th June 1863, 3088 dated 14th September 1863, and 2575, dated 9th July 1864.)

2. As regards "Tynats" continued hereditarily to the Gadkaris of the Parghad and Kullanidhi in the Belgaum District by Government letter No. 4118, dated 27th June 1849, in cases of proved poverty and destitution, a moiety or other portion of the "Tynat" may be continued to the widow of the last incumbent, who was the last surviving male descendant of the grantee during her lifetime, no service being exacted on account of the

* "Gadkari" is described by Molesworth as a soldier or peon serving in a hill fort. Their holdings were of very ancient origin, some having been conferred in the days of Shivaji. But it would seem that like the Amaráni† tenure in other parts of India they were regarded under Native rule as resumable at pleasure. (L. R. No. 1375, dated 17th October 1869: vide G. R. No. 8474, dated 7th November 1889.)

† 4 W. R. P. O., 121. 7 M. L. A. 182.

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same. (G. R. No. 3087, dated 14th September 1863.)

3. Gadkari lands can be continued to brothers (including half brothers by the father's side) as well as adopted sons of the grantees in possession in 1855, but the concession is not to extend further. This indulgence should be allowed to have retrospective effect, but should not extend to any repayments in cash. (G. Rs. Nos. 5932, dated 10th November 1874, 5170, dated 10th September 1875, 6014, dated 25th October 1875, and 4154, dated 19th July 1876.)

4. Gadkaris should not be permitted to lease their lands. If allowed to do so they would practically be authorized to alienate them altogether. Any sávkár would at once perceive the loop-hole left open for him in the sanad,* and would force his Gadkari debtor to lease to him his service holding at a nominal rate on what would practically be a perpetual lease.

The privilege of adoption should be strictly limited to persons who were holders in 1855. If it were conceded to their brothers and descendants, Government would by so doing virtually alienate these lands for ever.

The order contained in Government Resolution No. 541, dated 21st February 1863, was that the lands were to be continued, but the holders were to pay as judi one-half of the assessment, and by "one-half of the assessment" must be held to be signified one-half of the survey assessment on the land according to the rates for the time being in force. In other words, the judi is liable to increase or decrease on a revision settlement.

(G. R. No. 8690, dated 28th December 1888.)

5. It is not intended by the orders in Government Resolution No. 8690, dated 28th December 1888, that all alienated Gadkari lands should be resumed. Unless the owners of Gadkari lands are informed of the terms on which they hold them it will not be fair to enforce such terms. The alienations previous to the issue of those orders should not therefore be disturbed. The lands can only be resumed in those cases if the family of the holder in 1855 has become extinct. (G. R. No. 4459, dated 21st June 1889.)

* A form of the sanads to be granted to Gadkaris was sanctioned by Government Resolutions Nos. 1634, dated 27th February 1869, and 7801, dated 16th October 1889.

PART IV.—POLICE PATELS.

1. The wording of Section 5 of Bombay Act VIII of 1867 is not very clear, but the question whether the words 'so far as the same may be applicable' in clause 2 of Section 5 of that Act would warrant a Magistrate in refusing service from a Watandár or deputy who might satisfy the qualifications required by the watan law, but would be obviously of immature age for Police Patel's duty, may be answered in the affirmative, subject to the proviso that what might be immature age in one case need not necessarily be 20 in another, and that no rule on the subject can be laid down.

Section 5 while requiring appointments to be made according to the principles of the Watan Act so far as the same may be applicable cannot have intended to necessitate the appointment of a Watandár obviously unfit for the duties prescribed by the remaining sections of the Act. What may constitute such unfitness is a matter of some nicety which can only be decided in each case as it arises, but when the result of following in their entirety the provisions of the watan law would be to compel the Magistrate to appoint a person clearly unfit for the duties it might fairly be held that the provisions in question were inapplicable. In so far, however, as they did not lead to such a result they should be followed. (L. R. No. 1610, dated 22nd December 1887: *vide* G. R. No. 861, dated 8th February 1888.)

2. When the office of Police Patel has been customarily given to the Revenue Patel, the representative Watandár if fit for revenue office will presumably be also fit for police duty, and no question of nomination of a deputy will arise. If the representative Watandár is not qualified for the revenue duty and is allowed to appoint a deputy, the Magistrate can either select a Police Patel from the other representative Watandárs, if any, or if there are none, or none fit, can invest the deputy with the office of Police Patel.

When the office of Police Patel is held as a separate watan from that of Revenue Patel, if there be only one representative registered by the Collector and he is unfit to serve, but not unfit to nominate a deputy, the Magistrate should call upon him to nominate under Chapter VIII of the Watan Act. If there be more than one representative registered by the Collector, and the Watandár whose turn it is to serve is not fit, the Magistrate may appoint any other registered representative, and if none are fit, may call upon the Watandár whose turn it is to serve to nominate a deputy under Chapter VIII of the Watan Act. (G. R. No. 3057, dated 25th April 1889.)

3. In 1887 on a reference made from the Deccan in a case arising under Bombay Act III of 1874, the then Acting Remembrancer of Legal Affairs,

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Mr. Fulton, traced, but not quite from the beginning, the history of "the Patel." This together with his opinion (No. 1058, dated 12th August 1887*) is given at length in the preamble to Government Resolution No. 5902, dated 2nd September

*Memorandum from the Remembrancer of Legal Affairs, No. 1058, dated 12th August 1887:—

"The provisions of Section 6 of Regulation XII of 1827, which remained in force till the passing of Bombay Act VIII of 1867, were as follows:—

The police of each village shall be under charge of the Patel or chief manager of the revenue thereof and shall be conducted as prescribed in Chapter VI. The officer shall be furnished with a written commission in the form of Appendix C, but in the event of his occasional absence, the duties, with the exception of adjudging punishments, shall be carried on by the person next to him in responsibility and influence at the village. When the village revenue management is divided among different persons, the Magistrate shall select one of them to make charge of the police, and if the revenue arrangements are of such a nature as not to devolve particularly on any person resident at the village, the Magistrate shall select some one residing therein to perform the duty.'

"2. The next law on the subject was Section 5, Clause 2, of Bombay Act VIII of 1867, which provides that—

'In making the appointment (of Police Patel) the Magistrate shall have due regard to the provisions of Act XI of 1843 or other Acts in force for regulating the services of hereditary officers so far as the same may be applicable; but when the Revenue Patel is not appointed Police Patel and more persons than one claim by reason of hereditary right to perform the duties in rotation or otherwise, it shall be lawful for the Magistrate of the district to appoint the most fit from among their members.'

"3. The second sentence of this clause is not quite so free from ambiguity as might be desired, but I think it is clear that in cases in which the Revenue Patel is not appointed Police Patel the Magistrate's choice is restricted to those who claim by reason of hereditary right to perform the duties by rotation or otherwise, when there are such claimants. This of course implies that the claimants must have hereditary right to perform the duties, for a mere allegation of such right will not satisfy the requirements of the section. It cannot properly be said that a person claims by reason of hereditary right if he merely alleges such right without possessing it. A difficulty arises as to the meaning of the expression 'the duties.' Looking to Regulation XII of 1827 one might be inclined to hold that the words related to the revenue duties and that it was only from among persons who rightfully claimed by reason of hereditary right to perform the duties of Revenue Patel that the selection could be made. It might be said considering Section 6 of Regulation XII of 1827, which was only repealed when Bombay Act VIII of 1867 came into force, that no one could possibly claim of hereditary right to perform the duties of Police Patel unless he was also entitled to perform the duties of Revenue Patel. But I think the expression must refer to 'the duties of Police Patel,' and the answer to the above objection must be that Section 6 of the Regulation must not be construed too literally, that the expression 'village revenue management' meant no more than the Patelki or administrative headship of the village which was originally one office, and that the section simply intended that one of the Patels was always to be given a sanad empowering him to take charge of the village police and the Magistrate was not to appoint an outsider so long as a Patel resident in the village was available. I do not think it meant to prohibit the appointment of any Patel to whom custom did not assign a share in the duty of collection of the revenue, though such would have been its effect if it had been understood in its narrowest sense.

"4. In practice, however, I think it must have been liberally interpreted, for instances are, I believe, numerous both in the Dekkan and in North Gujarát where so far back as the records go the offices of Revenue and Police Patel have always been held

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1837. He shows that when the Deccan first came under English dominion there was but one such officer recognized, *viz.*, the Revenue Patel; that construing the expression of Regulation XII of 1827 literally "no one could possibly claim of hereditary right to perform the duties of *Police Patel* unless he was also entitled to perform the duties of Revenue Patel;" that the office of Patel, the administrative headship of the village, was *originally one office*: that, construing the Regulation not too literally, in settling the register of Watan-dárs the Collector of the District was to decide what was the *custom* of the watan, and that if he found that "one branch has by custom acquired the sole right to serve as *Police Patel*, he can register such right, and the Magistrate who makes

by separate families or separate branches of the same family. Probably in this respect the customs of various villages and various parts of the country differ considerably. In the famous report of 1819 on the territories conquered from the Peshwa we find the Honourable Mountstewart Elphinstone writing as follows:—

'The Patels are the most important functionaries in the villages and perhaps the most important class in the country. They hold their office by a grant from the Government (generally from that of the Mogals), are entitled in virtue of it to lands and fees, and have various little privileges and distinctions of which they are as tenacious as of their land. Their office and emoluments are hereditary and saleable with the consent of Government, but are seldom sold except in cases of extreme necessity, though a partner is sometimes admitted with a careful reservation of the superiority of the old possessor. The Patel is head of the police and of the administration of justice.'

"5. The statement of the Collector of Dhárwar quoted in Government Resolution No. 4157 of 10th June 1886, that the office of *Police Patel* was treated by the English Government appears inconsistent with the above extract which is supported by several other reports written about the same time, and the conclusion arrived at in the resolution is one which I most respectfully submit, though it may have been correct in the particular instance, cannot be accepted as of general application. Probably in most cases the *pateiki watan* with its various revenue and police functions was originally the property of a single family, but as pointed out by Mr. Elphinstone, sometimes partners were admitted and this may account for the existence of separate *taksims* in some villages belonging to families of different castes. When such partition took place the duties may have been divided, and even where no alienation of any watan occurred and no family of outsiders was admitted into partnership it is easy to imagine that by custom the police duties may have been assigned to one branch of the family and the revenue functions to another.

"6. It was probably to provide for contingencies of this sort that the wording of Section 5 of Act VIII of 1867 was made to point directly to the hereditary principle recognised in Act XI of 1843, rather than to attempt to associate the office of *Police Patel* invariably with that of Revenue Patel.

"7. According to my view, then, Section 5 binds the Magistrate to appoint as *Police Patel* the person having sole hereditary right to that office if there is one, but in case there is no such person and there are two or three claimants having an hereditary interest in the office, the Magistrate is not bound to follow a particular order of rotation, but can select from among them. I do not think, however, he would be justified in selecting from a branch which in consequence of some ancient alienation or family custom had long lost its right to perform police duties.

"8. The question appears to me then to be entirely one of custom, and that can be decided by the Collector when prepar-

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the appointment of Police Patel, will be bound to recognise it" under the Police Act. Government, however, in their Resolution quoted above guarded themselves from accepting the conclusion "that the office of Police Patel as now constituted was always associated with that of Revenue head of a village in all parts of the Presidency," but they accepted and allowed to be acted upon *in all parts of the Presidency proper* the view that the Collector preparing the register could decide what was the custom of the watan so far as the Police Patel was concerned, and if he found that the custom had invariably been for a particular family to do that duty, he could enter it in the register, and the register would thenceforward be binding on all parties.

In 1890 a reference was made to Government regarding a matádári watan from Gujarát, and the Remembrancer of Legal Affairs, Mr. Naylor, in his

ing the watan register. Section 25 imposes on him the duty of determining the custom of the watan as to service, and in the register he can note down any rules or limitations which are authorized by custom.

"9. In cases in which there are distinct taksims belonging to radically different families and attached to distinct offices, I think as recommended in my report No. 1047, dated 9th instant, there is no objection to treating the several taksims with their respective offices as distinct watans. But, where as apparently in the present case, the different branches of family spring from one original Watandár it does not appear necessary to do so. The heads of the families can be registered as representative Watandárs of one watan. If the Collector thinks that one branch has by custom acquired the sole right to serve as Police Patel he can register such right, and the Magistrate who makes the appointment of Police Patel will, I think, be bound to recognise it under the first sentence of the clause from the Police Act above quoted.

"10. It will be observed that the mere fact of registration as a representative Watandár does not necessarily include the right to discharge at some time or other every function of Patel, for in each case it is the duty of the Collector to determine the custom of the watan after consideration of the practice heretofore observed from the earliest period for which there are records or other evidence available. The putelki was probably one, but in many villages it is now broken up into several parts though at the same time the whole taken collectively may still be treated as one office and the descendants of the original Watandár may still collectively be deemed to discharge the duties for which the watan was conferred upon their ancestor and may therefore properly be registered as representative Watandárs of one watan notwithstanding that each is entitled to perform only one particular portion of the duties.

"11. In regard to taksims held by separate families the case is somewhat different. There must at some period have been a creation of a distinct office probably with the sanction of or in consequence of the interference of the sovereign power; and all connection between the several fragments of the old watan appear severed. The various families have no reversionary or other interest in each other's taksims; and each constitutes for all practical purposes a separate watan which probably it would be found convenient to recognise as such in the registers.

"12. For the above reasons, I think the question whether the petitioner can be granted the exclusive right of performing police duties may be answered in the affirmative provided it is found that by invariable custom her family has always discharged the functions of police Patel and a decision to that effect is passed either by the Collector under Section 25 of the Watan Act or by Government under Section 79."

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opinion No. 1019, dated 15th July 1890 *—appended to Government Resolution No. 5394, dated 2nd August 1890—gave a clear history of "the Patel" from an earlier date than that taken by Mr. Fulton. He showed that there was originally only one—the Revenue—Patel, and that subsequently, during and

* Report by the Remembrancer of Legal Affairs, No. 1019, dated 15th July 1890:—

"The opinion printed in the preamble to Government Resolution No. 5902 of 2nd September 1887 is attributed by the Commissioner to me, but it was really submitted to Government by my *locum tenens* Mr. Fulton, and I have myself seen it now for the first time. It is not necessary for the purposes of the present reference that I should consider how far my views coincide with those which Mr. Fulton expressed with regard to a question affecting the operation of the Hereditary Offices Act in the Deccan only; but as regards the districts in which the *Matadars* Act is in force, I am unable to discover any authority for the separate recognition by Government of a Police *Patel*ship and a Revenue *Patel*ship.

"2. The earliest Regulation on the subject is No. IV of 1818, Section 3 of which directed that 'Heads of villages should be heads of the Police of their respective villages,' and provided that 'in villages where there may be more than one headman coming under the denomination of *Patels*, *Patidars* or other designation, the person who collects the revenue and under whose authority the village servants act, shall be considered as the head of the village.' The object of this Regulation being, to quote from its preamble, to establish a system of Police 'founded chiefly upon the ancient usages of the country,' this early definition of the term 'headman of the village' leaves, I think, little doubt that the *Ughratdar*, 'the person who collects the revenue,' was at that time deemed to be the person in whom the custom of the country vested the right to exercise Police-powers also. Under the Native rule the collection of the revenue was the headman's principal duty, his *raison d'être*, so far as the ruling authorities were concerned; he, no doubt, exercised some Police-powers also, but they were little thought of. It is only under the British Government that the Police duties and powers have gradually assumed a greater importance than the revenue office, till now the Commissioner is able to speak of 'the subordinate office of Revenue *Patel*.'

"3. Regulation XII of 1827 followed the Regulation of 1818 in placing 'the Police of each village under charge of the *Patel* or chief manager of the revenue thereof,' and provided that 'when the village revenue management is divided among different persons, the Magistrate shall select one of them to take charge of the Police.' This Regulation continued to be the law of this presidency for forty years, until, in 1867, the late Sir Barrow Ellis brought in the Village Police Bill. But it does not appear from the proceedings in Council at the passing of that Bill (Proceedings of Bombay Legislative Council VI, 73—74), that there was any intention of altering the law as regards the charge of the Village Police which had hitherto prevailed. The Village Police Act was, in fact, introduced as a supplement to the District Police Act, and in moving its second reading Sir Barrow Ellis said: 'There was very little that was new in the Bill, it being merely a re-enactment of portions of Regulation XII of 1827, which related to the Police, with such modifications as were necessary to fit the provisions of that Regulation into the system which had been approved and settled by the Council in the Bill (the District Police Bill) which had just been read a third time and passed.' The present Section 5 of the Village Police Act was substituted by the Council, on Sir Barrow Ellis' motion, for the section which originally appeared in the Bill, but there is no indication in the few words with which Sir Barrow Ellis introduced his motion that any radical change of system was contemplated. His reason was, he said, 'that as the clauses of the section originally stood, the meaning was not very clear, and there appeared to be some fear that there might be a collision between the provisions of one clause and those of another, and besides he had not felt at all satisfied that the whole

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because of British rules and regulations the Police Patel as now constituted was evolved from him. Mr. Naylor construed strictly the Regulation which Mr. Fulton considered need not be too narrowly construed, but both arrived at the very conclusion which Government had guarded themselves from

would fit into the requirements of the Hereditary Offices Act.' He went on to say it was difficult to frame any section which might not be difficult to work in connection with the Hereditary Offices Act, but he trusted that that Act would ere long be amended and in the meantime 'under the amendments as he had now framed them, there would, he believed, so far as could be foreseen, be no difficulty in making the appointment of efficient Patels.'

"4. Clause 2 of Section 5 of the District Police Act requires that in making the appointment of Police Patel, the Magistrate shall have due regard to the provisions in force for regulating the service of hereditary officers, and by making a special provision for the case in which the Revenue Patel is not appointed Police Patel, it clearly contemplates, in my opinion, the continuance of the system in vogue since 1818, under which, as a general rule, the Revenue Patel had charge of the Police.

"5. Under this system it appears to me that a patelship may be fairly and properly defined as an hereditary office for the discharge of certain revenue duties in a village, with the right thereto attached of the officiator's being appointed to have charge of the Village Police, except in the case of its being found necessary to have more officiators than one, when, if the latter part of Section 5, Clause 2, of the Village Police Act applies, the Magistrate has a right of selection from amongst other Watandárs.

"6. This is the system, with reference to which the definition of 'hereditary office' in Section 4 of the Hereditary Offices Act and of 'matádár family' in Clause (1), Section 2 of the Matádárs Act must be deemed to have been framed, and they are, I think, entirely consistent with it.

"7. The term 'Patel' is nowhere defined, for the reason presumably that such a definition was not deemed necessary. But the Matádárs Act does not empower the Government to define what constitutes the office of Patel in any given case; and in exercising the power conferred upon it by the proviso to Section 6, it is not, I think, competent to it to do anything beyond what the proviso contemplates, *viz.*, to declare that 'the right to the Patel's office appertains exclusively to one matádár family.'

"8. Supposing that in the case in question Government should think fit to declare that the right to the Patel's office appertains exclusively to the No. 1 family—a point as to which I do not understand that my opinion is desired—that right will thereupon vest, under Section 14 of the Matádárs Act, in the representative Matádár of that family alone, *i.e.*, he will succeed by hereditary right to the revenue duties, and the Magistrate recognising his hereditary claim will appoint him under Section 5 of the Village Police Act to be Police Patel. But if, at any time, the Collector decides under Section 13 of the Matádárs Act that two or more officiators are requisite, the representative Matádár must, if his services are not dispensed with by the Collector under Section 19 and he is not disqualified under Section 30, officiate himself and appoint, under Section 20, one or more deputies, who, under Section 21, must be members of a matádár family of the village. In this case other members of matádár family besides the individual in whom the exclusive title vests would get into office, which appears to be to some extent what the Commissioner wishes to secure, but there would be no right in any particular matádár or matádár family to act as deputy or to be appointed to either police or revenue duties. The selection of the Police Patel would also not rest with the Magistrate under the latter part of Clause 2 of Section 5 of the Village Police Act, because the circumstances there described would not arise, but the appointment might fall to the Collector under Section 22 of the Matádárs Act in default of the representative Matádár."

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endorsing when issuing Resolution No. 5902, dated 2nd September 1887, and so far from overruling Mr. Fulton's view as to the origin of the Police Patel, as suggested in paragraph 2 of the Commissioner's No. 1003-A., dated 7th March 1891, Mr. Naylor confirmed it. He, however, differed in construing the law strictly, and so far as Gujarát, where the Matádárs Acts in conjunction with Bombay Act III of 1874 constitute the law, is concerned, Government endorsed his opinion, and the consequence was that there the Collector could not, under Section 25 of Bombay Act III of 1874, since repealed, settle and enter in the register that the custom of the watan is for one family to have the Police Pátelship and its duties registered in his name solely, and that the office must go by rotation amongst the matádárs.

The "Mukhi" was the "Chief" revenue collector; the other 'matádárs,' 'pátidárs, or bhágdárs, it is true, collected the shares of their respective 'matás,' 'pátis' or 'bhágs' and brought them to him as "Mukhi" or Chief. But he was himself the head of his own 'mata' and collected the revenues thereof. He was primarily responsible for the whole revenue of the village, and under him the village servants acted, and in paragraph 2 of Mr. Naylor's report it is shown that he as headman, *i.e.*, "Mukhi," was at the time of Regulation IV of 1818 the "head of the police" of his village, the person in whom the custom of the country vested the right of head or chief, "Mukhi," collector of revenue, with police powers. It is only since the introduction of British rule and the stricter codes of police regulations thereunder that the Police Patel has grown in importance, and the appointment is therefore coveted by all the matádárs. He combined the two functions, was therefore "Mukhi," and as owing to regular revenue settlements the work of collecting revenue became less responsible and more matter of routine, so did the office of Revenue Patel fall and that of Police Patel rise in popular estimation, and the word "Mukhi" losing its early significance as chief revenue collector—combined with head of the village police—by an easy transition came to be regarded as applicable to the *Police* Patel only. It appears evident that the present difficulties are due in great measure to the origin of the "Mukhi" having been lost sight of.

But when all allowance is made for that, the practical difficulty remains that the "Mukhi," whether he is Revenue Patel or not, is recognised all over Gujarát as the Police Patel, that in very many cases the duty has been performed hereditarily in one family since the introduction of British rule, and that a prescription ranging over from 60 to 80 years, which the Matádárs Acts do not however recognise, has thus been established.

4. A Patel who does not exercise the powers vested in him under Section 15 of the Village Police

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Act for a period of two years may well be deprived of them. This course should accordingly be taken, and at the close of each calendar year, District Magistrates should submit to the Commissioners a list of those Patels who have not tried any cases under the Act referred to during the two previous years. (G. Rs. Nos. 8360, dated 1st November 1889, and 1888, dated 12th March 1890.)

5. The general instructions embodied in paragraph 14 of Government Resolution No. 8360, dated 1st November 1889, were not intended to be, and have not apparently been, observed as a hard and fast rule. Government are perfectly willing that the Commissioners should except from the effect of the orders in question individual Patels whom it would be advisable in the Commissioners' opinion to retain in possession of their powers under Section 15 of the Village Police Act. (G. R. No. 9213, dated 20th November 1896.)

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PART V.—SHETIAS.

1. The Shetias should be relieved from formal Government service when no remuneration is available, but their position should neither be altogether ignored nor their right to honorary consideration denied. They are often useful as a medium of communication with the general body of traders and may be called upon to furnish occasional information, or to use their influence with their fellow-townsmen in return for the recognition by Government of their honorary position. Although it seems out of place to dismiss with the formality of law unpaid officers like these Shetias, the Collector might appropriately refuse to communicate with one who had misbehaved and might demand the election of another member of the family. (G. R. No. 1336, dated 11th April 1860.)

2. The office of Shetti is of old standing and honourable in the eyes of the native community, and it seems inexpedient to interfere with its continuance. The Commissioner and Collectors should endeavour to put the services of the Shettis to some good use. (G. R. No. 6768, dated 10th September 1889.)

3. It is within the competence of Government to abolish Shetti, watans generally, and though by the foregoing Resolution Government declined to exercise their undoubted power generally, that is no reason why, for given reasons in a particular case, their power should not be exercised. (G. R. No. 4920, dated 20th July 1891.)

PART VI—SHETSANDIS.

1. Whether the reversion of Shetsandi holdings rests with Government, or the Inámdár, it must be always first considered whether the proceeds of the assessment are not required for the purposes for which the land was originally alienated, and when the number of Shetsandis is reduced, the assessment on the land held by the person so reduced should always be made available for those whose services are retained, unless their emoluments are already ample. (G. R. No. 3851, dated 9th November 1867.)

2. Any Shetsandi or Talwar in common with any Judi Inámdár may resign an entire survey number and obtain a reduction of his judi equal to the assessment of the land resigned.

A Shetsandi or Talwar holding only one survey number and having to pay judi thereon, may resign the entire number and receive a cash payment equal to the assessment hitherto alienated.

In the settlement of lands held by Talwars, whose services it is necessary to retain, some margin should be allowed; if the land emoluments which such a Talwar is actually holding are not according to the revised assessment more than 25 per cent. in excess of what he is entitled to according to the scale, the surplus should not be resumed, and only the excess over 25 per cent. should be added to the judi leviable. (G. R., J. D., No. 5789, dated 5th October 1879; *vide* G. M. No. 5220, dated 11th *idem*.)

3. When no one can be found willing to do service in return for an occupancy thrown up by a Shetsandi, the Collector and District Magistrate may sanction a cash payment for the service up to the amount of the revenue hitherto alienated for service, and if this is insufficient, a larger amount up to Rs. 48 per annum might be proposed by the Commissioner for sanction. (G. R., J. D., No. 4825, dated 11th July 1885; *vide* G. M. No. 6064, dated 25th *idem*.)

4. An allowance of Re. 1 per mensem may be given to each Shetsandi in the Dhárwár District while deputed to assist Circle Inspectors in their duties. (G. R. No. 8522, dated 15th December 1887.)

5. It is not justifiable to resume the land held by a Shetsandi for the performance of duties as a village servant in one village on the ground that the number of Shetsandis is in excess of that required for the village. The superfluous Shetsandis or Shetsandis who refuse to serve in villages other than those in which their holdings are, should be made to pay full assessment on the lands held by them for service. (G. R. No. 2101, dated 23rd March 1891, and G. R. No. 6093, dated 19th July 1894.)

6. The Shetsandis of Singhar and its neighbourhood in the Haveli Taluka of the Poona District are not Watandárs, their sanads contain no mention of hereditary right, and they are removeable

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at the pleasure of Government. It also appears that there are only now left 78 of the original Shetsandis and that 66 squatters have been allowed to enjoy their holding so long without hindrance. If it could be ascertained exactly who are the descendants of the original Shetsandis and who the descendants of the mere squatters, the latter might be evicted at once, but it is impossible after such a lapse of time to discover who are the legitimate successors of the original Shetsandis and who are the squatters. In fact an attempt to ascertain this was previously made but proved ineffectual.

The Commissioner, C. D., proposed that the Shetsandis who were doing duty should be relieved of it and that they and the squatters and alienees (it being impossible to discriminate between them) should be allowed to retain their holdings on payment of full assessment, and that they should also be allowed such privileges in regard to trees as are enjoyed by other tenants. The Commissioner considered that the same terms should be offered to all the Shetsandis whether their holdings were inside or outside the forest demarcation line.

Government approved of the proposals made by the Commissioner, subject to the following modification as regards rights to trees. According to the terms of the sanads on which the Shetsandis occupy their present holdings, all the forests within their holdings are the property of Government and one of the duties of the Shetsandis is to protect these forests. It is therefore entirely at the pleasure of Government to grant or refuse rights to trees to the Shetsandis. It would in the opinion of Government be dangerous to allow the owners of holdings inside the Forest Reserve rights to trees, and the Shetsandis should therefore be given clearly to understand that those of them who own holdings outside the forest demarcation line will be granted the same rights to trees as are enjoyed by other tenants, but that similar rights cannot be conceded to those who own holdings inside the demarcation line. If, however, these latter will agree to take in exchange for the land held by them inside the Forest Reserve an equal or even slightly larger area of land outside the forest demarcation, where such land is available, the rights to trees other than royalty trees on such lands, outside the forest demarcation, will be granted to them. The exchange of lands on these lines should be carried out at once, wherever practicable, the rest of the land being gradually acquired as opportunity offers. The rights of Government to teak, which are undoubted, should be rigidly enforced.

(G. R. No. 7957, dated 8th November 1890.)

7. Though no judicial decision appears ever to have been obtained to the effect that Shetsandis are not hereditary officers within the meaning of Bombay Act III of 1874, there is every reason, on the

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grounds given in paragraph 2* of Mr. Naylor's No. 280 of 25th March 1887, for inferring that, as the

*Secretary of State for
India in Council vs.
Rámchandra Ganesh.*

High Court has in the case marginally noted held their lands to be resumable, the right of Government in respect thereof is exercisable under Rule 5 of the Rules in Government Resolution No. 1364 of 1878, and that Bombay Act III of 1874 has no application.

The arguments in paragraph 10 † of Mr. Naylor's No. 452 of 26th March 1884, quoted in the preamble to Government Resolution No. 1793, Revenue Department, of 15th March 1888, furnish strong grounds for maintaining that Government may not merely assess to the full, land held for service otherwise than under Bombay Act III of 1874, but may actually recover possession of the actual land itself.

Ordinarily resumption means only the enforcement of the Government claim to the full assessments. But this is the case because of occupancy rights, or other estate in the lands, giving title to continued possession independently of the conditions on which the privilege of exemption had been held.

If in the case of service lands, however, the tenure itself, and not the mere exemption, was dependent solely on the performance of service when required, then the right to recover possession and not merely to resume the privilege of exemption could be exercised by Government as the grantor.

But for this purpose a suit would in each case be necessary to eject the alienee if he declined to vacate.

(L. R. No. 39, dated 7th January 1893; *vide* G. R. No. 1506, dated 24th February 1893.)

8. Copies of the following opinion of the Remembrancer of Legal Affairs, No. 741, dated 17th June 1893, were forwarded to the Commissioners and Collectors for information with the remark that the Governor in Council considers that in cases of unauthorized occupation of Shetsandi lands, the best

* "The question whether Bombay Act III of 1874 applies or not to Shetsandis' holdings must, therefore, still be regarded as a point which has not been judicially determined. The result of the suit, however, establishes the right of Government to resume such holdings, and as such a right is not exercisable under Bombay Act III of 1874 and is exercisable under No. 5 of the Rules issued with Government Resolution No. 1364 of 1878 (*vide* paragraphs 6 and 8 of my report on this suit No. 452 of 26th March 1884) it is a fair inference that the High Court considered the latter rule and not Bombay Act III of 1874 to apply to Shetsandis' holdings. But the absence of any explanation of the ground of the Court's decision leaves room for doubt as to what view it took."

† "With regard to the effect of resumption the defendant, no doubt, relies upon the fact that resumption by Government of a lapsed holding does not usually mean ousting the person actually in possession of the land, but simply the enforcement of the claim of Government to full assessment. In the case of lands not held for service this is the meaning of resumption and it has been so held by Government and by the High Court. But the reason for this is clear. So long as Government receives the full land

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plan will be for the Collector to proceed by summary eviction, and that such eviction followed by failure on the part of the person evicted to regain possession in a test case, would place Government in a better position than success in a suit for possession so far as the prospect of other alienees vacating possession without resistance is concerned :—

“Section 61, Bombay Land Revenue Code, 1879, provides for the eviction of persons unauthorizedly occupying any land

- (a) set apart for any special purpose, or which is
- (b) unoccupied and unalienated.

“2. ‘As the same expression is presumed to be used in the same sense throughout an Act,’ the phrase ‘set apart’ in Section 61, Bombay Land Revenue Code, is presumably used in the same sense in which it is used in the only other part of the same Act in which it occurs, *i. e.*, in Section 38, where it applies to lands set apart for the specified purposes of free village pasturage, forest reserves, or other public or municipal purposes.

“3. The phrase ‘set apart for special purposes’ would not, it is submitted, be applicable to lands assigned to particular persons, held on an exceptional tenure or subject to restrictions affecting their alienability.

“4. The unauthorized occupation referred to in the Government memorandum under report No. 4249, dated 18th June 1893, could not apparently be dealt with as coming under the category of unoccupied and unalienated lands, for apparently possession was derived from the Shetsandis in occupation.

“5. The Honourable Mr. Naylor in paragraph 7 of his Government Resolution No. 1986 of 7th December 1891 and No. 8813 of 21st December 1891. Mr. (now the Honourable Mr. Justice) Fulton in paragraph 4 of his No. 138 of 31st January 1888, appear to have entertained no doubt that Section 61 and Section 202 would be inapplicable in such a case.

“6. Apparently it was the intention of the Legislature to limit the power of summary eviction to cases in which the unauthorized occupation is manifestly in conflict with, or in evasion of, the notorious rights of the State, as either incompatible with the purposes of a public appropriation, or as unaccompanied by any colour of right on the part of the trespasser.

“7. It may have been considered that land already occupied and alienated is not so manifestly at the disposal of the State as to justify summary eviction and a penalty on its occupation under colour of a title from a holder.

“8. Should Government direct, for the purposes of a test case, a summary eviction without recourse to the Courts, it is

revenue due to the State in respect of such lands, it is a matter of indifference to Government who the occupants are, and it would be only inflicting an unnecessary hardship upon the former holders to oust them from the lands. But in the case of service lands these same considerations do not apply. The law expressly makes their continuance determinable according to such rules as Government see fit to make. The lands may probably be required for the remuneration of some other servant appointed instead of the person who formerly held them; and it is no hardship to a servant, whose service is at an end, to have to give up what constituted his remuneration as long as he performed service. In the case of the defendant, who is a mortgagee merely, the case is still stronger, for Government have never recognized him or his mortgage-transaction either, and he has no claim whatever to the consideration of Government.”

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probable that a suit by the transferee could be successfully resisted as to the claim for recovery of possession, and if the Courts held the summary eviction was not warranted by the law, the damages might perhaps be only nominal. But it is submitted that a single decision establishing the right of Government to recover possession by suit, might, as the Commissioners observe, afford an equally effectual protection to the interests of Government."

(G. R. No. 4926, dated 7th July 1893). ✓

9. The general effect of existing orders with respect to land alienated to persons not belonging to the Shetsandi families is that it will usually be preferable for the Collector to proceed by summary eviction of the alienee, resorting to civil suit for ejection in case of resistance to the eviction. But the principles laid down in Government Resolution No. 6093 of 19th July 1894, show that non-officiating members of Shetsandi families, who are in the same category as the "superfluous Shetsandis" referred to in that Resolution, should not be called upon to vacate the land held by them, but only to pay the full assessment. The same principle also underlies paragraph 7* of Government Resolution, Judicial Department, No. 3036 of 9th May 1877. The non-officiating members of the family should be made to pay the full assessment of the land which they hold, and the amount so received should be utilized for the remuneration of the officiating Shetsandi. (G. R. No. 8313, dated 22nd October 1896.)

10. Any rent up to the full profit should in future be levied from non-serving members of Shetsandi family in possession of service inám land with due regard to the provisions of Nos. 4 to 6 of the amended rules† under Bombay Act XI of 1852 and Bombay Act VII of 1863. (G. R. No. 2825, dated 28th April 1898.)

* 7. Where land in the occupation of a Shetsandi has to be resumed in consequence of his services being dispensed with, the possession of the land should not be disturbed, and the holder should be recorded as the survey occupant liable to the payment of the ordinary assessment. Similarly, where excess of land beyond what is required under the authorized scale has to be resumed, the possession of the land should be left with the holder, and a quit-rent equal to the difference should be imposed. Where waste land is available, and a Shetsandi is willing to serve, for rent-free land bearing an assessment of Rs. 24 in place of cash pay of Rs. 48, he should be permitted to do so; otherwise the payment should be in cash. (G. R., J. D., No. 3036, dated 9th May 1877.)

† Published in Government Notification No. 2324, dated 28th April 1898.

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PART VII.—SIND VILLAGE OFFICERS.

1. It is to be regretted that any previous engagements of Government should diminish the receipts of the village officers' cess, but it would be still more to be regretted if there were any departure from scrupulous good faith in fulfilling those engagements.

When therefore the cess cannot be levied if the terms of a sanad are to be strictly fulfilled, the power to levy the cess should not be exercised. His Excellency in Council will leave it to the discretion of the Commissioner in Sind to decide in what cases Government is bound to forego the cess.

With regard, however, to villages entirely alienated on which the cess is leviable only if a village officer be appointed, it is observed that the holders of such villages are probably bound by custom or otherwise to make provision for satisfactory police management, and while village officers need not otherwise be imposed upon them without their consent, the Act gives Government the power to appoint a village police officer and levy the cess, if any such obligation is not satisfactorily fulfilled by the holders of the village.

(G. R. No. 7352, dated 15th September 1884.)

2. The term "introduction of settlement" used in Section 6 of the Sind Village Officers Act, 1881, can only be understood by reference to the Land Revenue Code, the law under which revenue settlements are made. Section 103 of that Code explains when a survey settlement shall be deemed to have been introduced. The extension of the term of an existing settlement is not accompanied by the formalities prescribed in that section and, therefore, cannot be held to be the introduction of a settlement. So long as the old settlement is merely extended it would be a misuse of language to say that there has been a "revision of a settlement." The continuation, therefore, of survey rates after the term of guarantee has expired cannot be held to be either the introduction or revision of a settlement within the meaning of Section 6 of the Sind Village Officers Act, 1881. (L. R. No. 1376, dated 13th October 1884; *vide* G. R. No. 8543, dated 29th idem.)

3. No pension or portion of pension granted under the provisions of Bombay Act II of 1888 should ever be paid from any source other than a cess levied under Section 6 of Act IV of 1881. This order does not overrule that part of the provisions of Article 860 of the Civil Service Regulations which provides in case of service paid partly from general revenues and partly from Incorporated Local Funds that if less than one-fourth of the pension would according to the rule of proportions be chargeable from either source, no distribution is made, the other source bearing the whole charge. (S. of S. No. 1, Legislative, dated 12th April 1888; *vide* G. M., F. D., No. 1892, dated 19th June 1888, and

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G. R., F. D., Nos. 2150, dated 11th July 1888, and 3585, dated 27th November 1888.)

4. The entire cost of the village revenue establishments in Sind should be paid from the Village Cess Fund, without the aid of any contribution from Provincial Revenues.

The Secretary of State has laid down absolutely that pensions granted to the persons employed under the Sind Village Officers Act shall be paid only from the cess levied under Section 6 of the Act and from no other source.

(G. R. No. 112, dated 7th January 1889.) ✓

5. Having regard to the provisions of Section 6 of the Sind Village Officers Act No. IV of 1881 as amended by Section 3 of the Bombay Act No. II of 1888, the cost of the construction of Tapedárs' deras or chávdis cannot be legally charged to the Village Cess Fund. Expenditure incurred on these works should therefore be debited to Provincial Revenues, from which it was met before Act No. IV of 1881 came into force. (G. Rs. Nos. 4561, dated 27th June 1889, and 7258, dated 13th October 1890.)

6. In the Sind districts the village cess should defray the charges for binding Tapedárs' books G. R., F. D., No. 1398, dated 20th April 1894.)

7. The Collectors and the Deputy Commissioners in Sind may appoint Tapedárs appointed under the Sind Village Officers Act as village accountants under Section 16 of the Land Revenue Code to make them amenable to certain penal provisions of that code. (G. R. No. 3727, dated 4th June 1893.)

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PART VIII—VILLAGE SERVANTS USEFUL TO THE
COMMUNITY.

1. No nazrána is to be levied in cases of adoptions by village servants useful to the community. (G. R. No. 3141, dated 21st June 1878.)

2. Looking to the definition of "hereditary office" given in Bombay Act III of 1874 it is impossible to hold that the provisions of that Act are applicable to village servants useful to the community, such as sutárs, lohárs, &c., whose duties are in no way connected with the administration or collection of revenue as laid down in the definition in Section 4 of the Act. (L. R. No. 416, dated 1st April 1881; *vide* G. R. No. 2188, dated 14th idem.)

3. Act III of 1874 does not apply to the watans of village servants useful to the community such as Kázis, Joshis, &c., in as much as their offices are not included in the definition of hereditary office given in Section 4 of the Act not being held "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 question then simply remains whether Section 4 of the Pensions Act applies to such watans. The answer depends on the nature of the property which constitutes the watan. If that property consists in an annual cash allowance payable from the treasury, Section 4 is applicable, but not under ordinary circumstances if it consists in service land. The provisions of the Pensions Act have been held inapplicable to suits for the partition of service lands (*vide* the remarks on page 27 of Indian Law Reports, VIII, Bombay) and they do not apply to suits for the possession of watan lands held by Kázis, Joshis, &c. The position is not altered by the fact of a non-service settlement having been accepted.

(L. R. No. 684, dated 19th May 1887; *vide* G. R. No. 3817, dated 23rd June 1887.)

4. Under Section 18 of Act III of 1874 the term "Watan" applies only to hereditary offices, watan property, and rights and privileges attached thereto. The term "Hereditary office" is limited to offices held for the performance of *duties* connected with the civil administration, whether those duties are now demanded or not.

The term "Watan property" is limited to property provided for the remuneration of such duties only. Section 18 therefore does not apply to any *services* unconnected with the civil administration, nor does it apply to any remuneration for such services, or to any rights and privileges attaching to such services or to such remuneration.

Whether the duties connected with civil administration are now required to be performed or not, the section would not apply to any other kind of services demanded either by the village community or by

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individuals, the remuneration for which must be a matter concerning only those who perform such services and those who demand them.

(L. R. No. 644, dated 11th June 1888; *vide* G. R. No. 4273, dated 28th idem.)

5. The opinion of the Legal Remembrancer circulated with Government Resolution No. 4273 of the 28th June 1888 goes no further than to affirm that Section 18 of Bombay Act III of 1874 applies only to duties connected with Civil Administration. He does not affirm either that "baluta" or perquisites due by the villagers to Mahárs and Jaglyas are not leviable in respect of such duties or that Section 18 does not apply to "baluta" so leviable. The contrary is the fact. Under Section 18, the Collector is empowered to determine

- (a) the nature and extent of the "duties" to be performed;
- (b) the persons, &c., liable to perform the duties;
- (c) the nature and extent of the right to "baluta;"
- (d) the persons liable to make payment of such "baluta," either in money or kind as are leviable in respect of the duties.

There is no ground for the assumption that "baluta" are due to Mahárs and Jaglyas for private service only. This assumption was certainly not entertained by the framers of the Watan Act—a fact evidenced by the use in Section 18 of the word "duties," which must be taken to refer to the word "duty" employed in the second clause, and the word "duties" employed in the fourth clause of Section 4 of the Act.

Government are of opinion that "Section 18 as interpreted by Government Resolution No. 4273 of the 28th June 1888 is inapplicable only in cases of remuneration for services which are wholly unconnected with the Civil Administration, and which are of the nature of purely private services such as those of kumbhár, nhávi and the like. Mahárs also do private services of the same nature. But the Collector can differentiate and collect all 'baluta' which he deems due on account of duties connected with Civil Administration."

To sum up, Government consider the proper remedy for the insufficient remuneration for their public services of useful village servants who are ascertained to be underpaid is to recover from the landholders that contribution towards the remuneration for which they are legally liable. This recovery should be effected in the manner contemplated at the time of passing the Watan Act, namely, by action under Section 18 in the last resort, when all attempts at amicable settlement of the dispute between rayats and servants have failed. In such cases the Collector should hold an inquiry and pass a decision regarding the points specified in paragraph

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1 of this Resolution. A very few examples will be sufficient to bring home to occupants their responsibility for payment of the "baluta" due for public duties. Individual cases in which the remuneration by cash and land for duties performed for Government are found to be insufficient, may be reported as at present. But before reporting them, the District Officers and Commissioners should carefully consider whether the alleged insufficiency of remuneration is due to the refusal by the rayats of "baluta," and whether sufficient cause exists for refraining from applying Section 18. (G. R. No. 3074, dated 3rd May 1899.)

6. Care must be taken that the customary services, due from Mahárs under Section 69 of the Watan Act, in connection with village sanitation, are not treated as private service to individuals. (G. R. No. 4273, dated 28th June 1888.)

7. The sanads issued to the village servants useful to the community prohibit alienations of property to which they relate. There is therefore no necessity for amending Bombay Act III of 1874 so as to bring such watans under its operation. Under the terms of the settlement, land which ceases to be held as remuneration for service to the village community may be resumed. (G. R. No. 512, dated 24th January 1882.)

8. The terms of the settlement made in the case of village servants useful to the community should be held applicable to all cases in which their service lands have ceased to constitute the remuneration of such servants, and the lands should be resumed at once irrespective of the date of alienation.

It should be borne in mind that by resumption in such instances is only meant the levy of full assessment from the person in occupation other than the original grantee or his descendants. The present holders should therefore be allowed to remain in possession on payment of the full assessment to which the lands are liable.

If the original holders or their descendants have thought proper to alienate their lands in which they had only a life-interest, and have thus deprived themselves of the remuneration provided for the performance of their duties, they themselves are alone to blame for their own action, and the Governor in Council does not consider them to be entitled to any consideration. The full assessment to be levied in the case of these alienations should accordingly be credited to Government.

(G. R. No. 6310, dated 25th August 1883.)

9. The following opinion of the Remembrancer of Legal Affairs, No. 758, dated 4th June 1884, was concurred in by Government:—

"In this case the settlement was made, not with the Kázi's family, but with the family which so long ago as A.D. 1805 had purchased the Kázi's land. The sanad granted to this latter family

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recognizes them as the holders of the land 'claimed as emolument appertaining to the office of Kázi,' and declares that that land shall be continued as the emolument of the office so long as the village community may require the services, on the conditions that the holders shall perform the usual services to the community and shall continue faithful subjects of the British Government.

"2. If these two conditions are fulfilled and the village community still requires the services, the land cannot, I think, be resumed. The mere fact that the land is held by strangers is not a sufficient ground for resumption, when the settlement was made with those strangers and the conditions of the sanad are fulfilled by them. They of course cannot in this instance perform the duties in person, because they are Hindus; but if they perform the services vicariously, that is, I think, a sufficient compliance with the sanad, and the land may be said to be 'in the enjoyment of the persons who perform the services' within the meaning of paragraph 2 of my memorandum No. 966 of 21st July 1883, quoted in the preamble of Government Resolution No. 6310 of 25th August 1883."

(G. R. No. 4996, dated 21st June 1884.) ✓

10. The following case is on all fours with that decided in the foregoing Resolution No. 4996, dated 21st June 1884, except that the sanad was not issued to the holder but to the Inámdár, while during the enquiries held into the ináms it was clearly known to Government that they were in the enjoyment of strangers. In this case, so long as the two conditions, viz., that the holders are faithful subjects of Her Majesty and services are required for the village community and have been and are being performed whether in person or vicariously, are fulfilled, there is no sufficient ground for resumption:—

A and B purchased land held as inám for services useful to the community many years ago. A happened to get a settlement sanad while B did not get it, but the position of A and B does not differ beyond the fact that A obtained the sanad endorsed on his own name, while in the case of B the sanad was issued to the Inámdár. B did not attempt at the time to get the sanad in his own name because there was a foot-note to the sanad stating that the issue of the sanad to a certain individual does not invalidate the rights of others if there are any.

(G. R. No. 656, dated 23rd January 1885.) ✓

11. The following report of the Legal Remembrancer was communicated to all Commissioners and Collectors for information and guidance, with the instruction that the orders contained in Government Resolutions Nos. 512, dated 24th January 1882, and 6310, dated 25th August 1883, should be regarded

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as applicable to cash allowances as well as to service lands :—

"The Commissioner, C. D., questions whether Government Resolutions No. 512 of 24th January 1882 and No. 6310 of 25th August 1883, authorize the resumption of cash allowances originally granted as remuneration to village servants useful to the community on attempted alienations thereof by the holders.

"2. The Resolutions in question do not expressly authorize such resumptions, as they mention only the resumption of land by levy of full assessment. But the intention of Government by implication appears to have been that the same rule should apply to cash allowances. The original reference on which these Resolutions were passed dealt with such cash allowances as well as with land, and after considerable correspondence, on which it was decided that the Bombay District Hereditary Offices Act should not be extended so as to apply to such offices, Government arrived at the conclusion that all the sanads which have been issued prohibiting alienations of the property to which they relate.

The Commissioner, C. D., in reply to Government Resolu-

In his No. R-4875 of 9th December 1881, *vide* preamble to Government Resolution No. 512, Revenue Department, 24th January 1882.

tion No. 5705, Revenue Department, of 30th September 1881 reported that this condition was included in all sanads issued to village servants useful to village communities in all the districts of his Division.

"3. The Bombay Hereditary Offices Act undoubtedly has no application to such cases (*vide* Government Resolution No. 5705, Revenue Department, dated 30th September 1881) and if a cash allowance is conditioned on performance of service by a particular family, it is I think perfectly competent to Government to withhold it from any claimant outside the family of the original grantees. Under the Pensions Act (XXIII of 1871) no suit could lie, should Government determine to withhold the allowance from the original grantee or from the person claiming as his transferee (Indian Law Reports, 1 Bombay 80).

Government may perhaps in order to avoid doubt in future consider it desirable to give express directions for the same rule to apply to resumption of such cash allowance as under Government Resolutions Nos. 512 and 6310 has been laid down with regard to lands held for similar services.

"4. In the instance referred to by the Commissioner, C. D., in paragraph 3 of his letter now under reference a condition against alienation was expressly included. In that particular case the allowance was necessarily inalienable out of the family as it was attached to a religious office. Government could not, of course, be liable to suit in case they determined to resume such cash allowance, but such grants are not in their nature resumable (West and Bücher, page 398), 'the holder of the office can be constrained, if necessary, to perform the duties when properly called on.' Government could withhold payment from any alienee outside the family, but it would be contrary to the general principles of the Hindu law to withhold the emoluments of a religious office from the family of the original grantee."

(L. R. No. 291, dated 20th March 1889; *vide* G. R. No. 2643, dated 5th April 1889.)

12. On the hypothesis that the lands have been rightly resumed, of the following questions, (a) is answered in the negative, which involves the negation of (b), and (c) to the effect that the lands should be entered as khālsa :—

(a) Can inām land resumed by reason of its alienation by the original grantee or his descend-

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ants and entered in the accounts as khálsa by reason of such resumption be restored to the original holder on payment of the summary settlement judi, if at any time after resumption by Government the land again becomes the property of that holder ?

(b) Can such land in that case be entered as inám without the sanction of Government and restored to the Inámdár ?

(c) In cases where resumption has taken place in the form laid down in Resolution No. 6310, dated 25th August 1883, should the inám lands be entered as khálsa in the Government accounts or should they still be retained under the heading of inám, the full assessment merely being levied in view of the possible acquisition again by the original holder ?

(G. R. No. 6898, dated 13th September 1890.)

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PART IX.—SETTLEMENT.

1. The following instructions were issued by Government to the Revenue Commissioner for Alienations and were also communicated to the Revenue Commissioners, N. D. and S. D., for information :—

“ His Excellency the Governor in Council being of opinion that the summary settlement of alienations now being carried out by your Assistant in Sátara, and the settlement of village officers' emoluments now in progress under the Collector, should include all lands, either wholly or partially alienated, I am directed to communicate the following observations for your guidance.

“ 2. Instructions have already been issued regarding personal and temple holdings.

This will include

Dharmadows,	Nanpurvesh,
Dehengis,	Balpurvesh,
Bakshish,	Dasuri,*

and other denominations under which personal holdings are entered in the accounts.

“ 3. There are some entries, such as ‘kitta,’ ‘doubtful grants,’ ‘miscellaneous,’ ‘grants for services rendered,’ regarding which preliminary enquiry will be necessary to ascertain whether or not the holdings are for service, and as such resumable at the pleasure of Government, or subject to rules other than those laid down for summary settlement.

“ 4. But besides these there is a large class of holdings appertaining to the district and village hereditary officers and to the village servants.

“ 5. The holdings of the following must for the present be merely recorded, pending a decision on the treatment of hereditary district officers' holdings :—

Deshmukh,	Kulasa Potdár,
Deshpánde,	Desh Changula,
Naikvádi.	

Whether or not the Nargaundi's and Sir Deshmukh's holdings are to be included in this class as watans, or liable to summary settlement as ordinary inams, is a point on which enquiry must be instituted; and I am directed to request that you will report on this question as soon as your Assistant has collected the necessary information.†

“ 6. The Collector will settle the future emoluments of the village officers and servants who are supposed to render service to Government, or who may be made to render useful service. These instructions have already been issued as to the scale of remuneration for Patels and Kulkarnis. The Collector will

* People who go on pilgrimages—a kind of charitable grant.

† Mr. S. St. J. Gordon, Special Commissioner, in his letter No. 15, dated 27th June 1863, solicited the permission of Government—

1st—to deal with the Naikowdis according to local usage, that is to say, to treat as district hereditary officers those of them only who had hitherto been made use of as such, and to hand over the rest to be dealt with by the Collector under the rules applicable to *village servants*.

2nd—to settle the claims of Sir-deshmukhs, Sir-patels, Nargowndis, and others whose liability to serve was open to question, on the same principles on which the claims of other district hereditary officers were settled, where no special privilege was claimed; but where they objected to this, then to hand their cases over to the Collector to be dealt with under the Summary Settlement Rules as private inams.

Mr. Gordon's suggestions were approved by Government in Resolution No. 2555, dated 1st August 1863, subject to the modification proposed by Mr. Hart, Revenue Commissioner, S. D., namely, that any *cash allowances* which might be enjoyed by the claimants of the description mentioned in the second clause would, in the event of a refusal on their part to accept the zamindari settlement, have to be adjudicated under the amended rules of 1842, unless some general scheme for the settlement of claims to cash allowances was meanwhile sanctioned.

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further have to consider whether, from the amount realizable by assessing the lands of those whose services are not required, the emoluments of the inferior servants who still perform duty may not be improved.

"7. It will be sufficient for your Assistant to record these holdings in statements, which should be submitted for subsequent disposal to the Collector. Mr. Inverarity will then dispose of the lands of Patels and Kulkarnis according to the orders already issued, and, while assessing the lands of inferior village servants whose employment is no longer useful to the community, will hold the amount of savings available for the better remuneration of those, who, like Mahárs and Rámosis, perform service to the State, but are often insufficiently remunerated.

"8. The holdings which, for the reasons assigned in the last two paragraphs, your Assistant will refrain from disposing under the summary settlement are as follows :—

1 Patel,	10 Mahár,
2 Kulkarni,	11 Turol,
3 Chaugula,	12 Rámosi,
4 Khot,	13 Rakhwaldár,
5 Gauda,	14 Mang,
6 Shettya,	15 Koli,
7 Chaudari,	16 Kolegar,
8 Kotval,	17 Ambekari.
9 Yeskur,	

"9. The remaining holdings of village servants may be divided into two classes—

1st.—For services which, though not useful to Government, are of use to the community.

2nd.—For services which, though perhaps formerly of use, are now not required either by Government or the community.

"10. In the first class are—

1 Kázi,	7 Khatib,	} In agricultural villages without a large bazár; <i>vide</i> also para. 12 below.
2 Josi,	8 Sutár,	
3 Mulla,	9 Lohár,	
4 Guru,	10 Chambhár,	
5 Jangam,	11 Kumbhár.	
6 Muzávar,		

"11. In the second class may be placed—

1 Village Potdár,	12 Kumia,	} Except where part of a temple establishment, in which case under class 1.
2 Mukdum,	13 Kalvantin,	
3 Maházun,	14 Therkuri,	
4 Dangay,	15 Beldár,	
5 Dangut,	16 Sikulgar,	
6 Awti,	17 Táboli,	
7 Mushrif,	18 Bhat or Taker,	
8 Putki,	19 Ghudri,	
9 Pakhali,	20 Gondhuli,	
10 Jingar,	21 Dowri,	
11 Mendhagur,	22 Bhoi.	

"12. There will also be found a number of holdings the entry of which in the first or second class must depend on the circumstances of the village in which they are found.

Among these may be enumerated the—

1 Nhávi,	5 Máli,
2 Purit,	6 Gaundi,
3 Simpi,	7 Kassar,
4 Teli,	8 Pinzari,

whose services may be considered as requiring special encouragement whenever, from the small size, or remote position, of the village, or other similar cause, the attraction of a small piece of rent-free land may not unreasonably be considered requisite to enable the villagers to retain the services of an

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artizan, who, without such inducement, might with difficulty be persuaded to remain.

"13. The first of the above classes should be brought under summary settlement, and allowed to retain possession of their holdings on payment of one-fourth of the annual survey assessment for the time being. But, looking to the nature of these holdings, His Excellency in Council considers that nazarána on succession should not be exacted.

"14. Those in the second class no longer perform the services for which the grants were originally made; they should, therefore, be subjected to full assessment except grants under sanad by competent authority, which (if there be any such) should be continued with the holdings of the first class.

"15. The value of the assessment realizable under the second class should be reported to the Collector, who may be authorized to dispose of it for the better remuneration of the ill-paid useful village servants of the same táluka.

"16. The question whether the holdings referred to in paragraph 12 are to be placed in the first or second class, should be decided by your Assistant, in communication with the Assistant Collector in charge of the district, a decision being passed by the Collector in the event of a difference of opinion."

(G. L. No. 1915, dated 20th May 1860.) ✓

2. The orders issued in Government letter No. 1915, dated 28th May 1860, regarding kalvantins' *village* holdings should be applied to the holdings of kalvantins generally. (G. R. No. 288, dated 17th January 1866.)

3. The correspondence which terminated in Government Resolution No. 283 of 1858 laid down the principle which should regulate the tenure of the land of kalvantins (professional prostitutes) at temples, and this should be taken as a guide in dealing summarily with their allowances.

No option should be given in the matter, and in all cases in which decisions have not been passed upon the wages of prostitution derived from the State, a compulsory payment of ten years' value should be made, and 20 years in instances in which, through an erroneous conception of the nature of the "duty" which was being perpetuated at the time of decision, allowances were declared either hereditary or permanent.

(G. R. No. 4226, dated 17th November 1866.) ✓

4. The orders in Government letter No. 1915, dated 28th May 1860, which seem to solely refer to lands, are equally applicable throughout the Presidency to the cash allowances held by Balutas and Watandárs enumerated in paragraphs 8, 10, 11 and 12. (G. R. No. 3454, dated 5th August 1861.) ✓

5. In order to prevent apparent hardship to the individuals who are holders of the class of village service lands described in paragraph 11 of Government letter No. 1915, dated 28th May 1860, which have been continued for services now not required either by Government or by the community, they may, instead of being subjected to full assessment, as prescribed by paragraph 14 of that letter, be subjected to *half* assessment for the purposes authorized in its 15th paragraph.

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This rule should be made an uniform one, without respect to sanad or length of enjoyment, except in cases where the sanad may guarantee continuance *without service* which are cases not at all likely to be met with in this class of lands.

The class of ináms referred to in paragraph 12 of the letter quoted should be absolutely treated in the same manner, the remission of half the Government assessment appearing to be as much assistance as the villagers could reasonably expect from Government for the purposes of special encouragement adverted to in the same paragraph; the ináms of this class are so small that if the villagers find it necessary that the servant they wish to retain should not be obliged to pay *any* assessment, they could have no difficulty even in the smallest villages in making up by private arrangement what is required to meet the half assessment which is to be absolutely levied.

(G. R. No. 2606, dated 1st June 1861.)* ✓

6. The lands of the four classes of servants noted in the margin when in agricultural villages without large bazárs, as well as of the eight classes mentioned in the 12th paragraph of Government letter No. 1915 of 1860, were left to be entered by the Collector in the first or second class respectively according to the circumstances of the village. If placed in the first class, one-fourth assessment was taken, and if in the second class full assessment was taken, but by subsequent orders only half assessment is to be levied on holdings of the second class. It should be left to the discretion of the Collectors, under the general control of the Commissioners, to decide whether the holdings should be placed in the first or in the second class. (G. R. No. 3225, dated 16th July 1861.)

7. In the Khándesh District, Halkaris (village servants who fill the water-troughs for the village cattle) should be allowed to retain their lands, without payment of one-fourth assessment, when the exemption hitherto enjoyed is not more than Rs. 30 annual value; and the orders of Government contained in their Resolution No. 3225, dated 16th July 1861, should be made applicable to all above that amount, which should pay the one-fourth assessment, provided that the exemption be not reduced below Rs. 30. When the circumstances of the village have so altered that a Halkari is no longer necessary, the land may be fully assessed. (G. R. No. 2303, dated 13th July 1863.) ✓

8. Government letter No. 1915 of 1860 divided village officials into useful (as regards the commu-

*This Resolution was addressed to all Collectors, but the Revenue Commissioner, N. D., in reply to a reference from that officer was informed by Government, memorandum No. 4490, dated 15th October 1861, that the Resolution had been sent to the Collectors of Gujarát and the Konkan for their information only and was not intended for their guidance.

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nity) and the reverse, the former to pay one-fourth and the latter to pay full assessment. On Mr. Hart's recommendation. (letter No. 866 dated 4th May 1861) these instructions were so far modified that the second class were to be subjected to half assessment only on their rent-free holdings, on the grounds that the hereditary district officers were to be allowed to retain fifty per cent. of their emoluments. Subsequently the district officers' settlement was reduced, and fixed at rates varying from four to six annas in the rupee. Mr. Hart then remarked that it remained with Government to consider whether a similar course should not be pursued with respect to the poorer classes of village Watan-dárs, and added that, as the previous settlement had been enforced, it would now be preferable to convert the eight-anna holdings into transferable tenures, and that the lands of those who paid four annas in the rupee should be regarded as service watans liable (in whosoever hands they might be) for the service to village community for which they were held. Mr. Hart's letter No. 866, dated 4th May 1861, above referred to, distinctly pointed to the conversion of the watans paying eight annas in the rupee into *private property*, and Government entirely approved of his proposals. The right of transfer, therefore, should be looked upon as having been already conceded to these watans, and the view to be taken of the watans paying four annas in the rupee should be approved. (G. R. No. 2785, dated 23rd July 1864.)

9. The holdings of Shetias and Chaudharis in the Sátára Collectorate whose services are not required either by Government or by the village community should be subjected to the payment of judi equal to half the assessment. (G. R. No. 2953, dated 4th August 1864.)

The foregoing order (Government Resolution No. 2953) should be extended to any other Collectorate in which such extension may be urged in respect to similar holdings. The holdings after the application of the eight-anna assessment become transferable private property equally with those referred to in paragraph 4 of Government Resolution No. 2785, dated 23rd July 1864. (G. R. No. 3513, dated 17th August 1865.)

The order in Government Resolution No. 2953, dated 4th August 1864, should be extended, on the understanding that cases already decided are not re-opened, to any holdings in any Collectorate in which it is the case that the services of the Watan-dárs are alike useless to Government and the village community. (G. R. No. 4115, dated 2nd October 1865.)

10. Useless village servants in alienated villages, who render no service to the State, to the Inámdár, or to the villagers, and who do not hold from the alienee, should be required to pay, as their fellow classmen in Government villages do, eight

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annas in the rupee, with permission to have their holdings converted into private property with respect to transfer and succession.

Those who come under the class to which a four-annas' settlement has been given in Government villages cannot have a settlement offered to them, because the Inámdár is entitled to such services as may be rendered to Government in unalienated villages. If the Inámdár does not require the service, he may, on application to the Collector, have it commuted on the same terms as in a Government village, and receive the commutation in lieu of service.

(G. R. No. 2189, dated 23rd May 1865.) ✓

11. Under Government Resolution No. 2189, dated 23rd May 1865, the kadim holdings of village servants useful to the community in alienated villages have not been subjected to the settlement applied to similar holdings in Government villages, on the ground that the inámdár is entitled to receive from the said servants such services as may be rendered by them to Government in unalienated villages. No kind of service is rendered by this class of servants either to Government or to village inámdárs as distinct from the service rendered by them to the public, and there is therefore no valid reason for excluding their holdings in alienated villages from settlement.

The bar placed by Government Resolution No. 2189, dated 23rd May 1865, is removed. These alienations should be subjected to settlement, like alienations of the same class in Government villages, under Government letter No. 1915, dated 28th May 1860, and subsequent Government Resolutions on the subject.

(G. R. No. 5696, dated 22nd July 1896.) ✓

12. In the case of "Kadim" or ancient holdings of village servants in alienated villages useful to the community, but whose services are not required by the alienees, the latter have no claim to any payments made in commutation, which must be considered to be payable to Government, from which in reality these village servants hold. (G. R. No. 5770, dated 30th October 1880.)

13. The Collector of Belgaum having suggested that a certain assessment should be imposed on village Watandárs' holdings which were adjudicated under Act XI of 1852, in consequence of no service being required from them either by Government or the village, Government held that it was inexpedient to impose any assessment in cases where the parties had passed through the ordeal of an investigation by the Inám Commission, especially when it was borne in mind that all the land found in their possession in excess of the original grant had already been subjected to full assessment. If, however, the parties themselves wished to have their

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lands converted into private and transferable property, then the option of doing so by a payment of of three annas in the rupee might be granted and sanads similar to those previously issued in the case of useless servants would then be issued. (G. R. No. 1194, dated 7th April 1866.)

14. In case of useless village servants in the enjoyment of (I) cash only, (II) land and cash, who refuse to extinguish their money claim upon the State, commutation money payments should be continued at a fixed rate as life grants, and stopped on the death of the *holders*. (G. Rs. Nos. 1269, dated 31st March 1868, and 3977, dated 20th June 1882.)

15. When there are sharers in the watan each enjoying the emoluments by rotation, and all refusing to accept money compensation, the allowances should be divided among the sharers rateably according to their claims, and the share of each resumed on his decease. (G. R. No. 4540, dated 14th September 1871.)

16. In the case of service watans below the rank of Pátels and Kulkarnis, legitimate male issues should, in the first instance, be considered as nearest heirs, and in failure of such heirs the male issues of prostitute daughters of the family may be selected, but in no case should any woman who has become a prostitute be recognised as heir. (G. R. No. 2266, dated 5th May 1874.)

17. The rules laid down in the Revenue Commissioner's No. 1550-A, dated 1st June 1864, for the settlement of the lands of village servants in the Kaira Collectorate were adopted by the Extra First Assistant Collector in the Panch Maháls. In these rules Bhavaías being classed as useless village servants, their lands were fully assessed. But their lands and those of other village servants, such as carpenters, potters, barbers, &c., were enquired into and recognised by Colonel Wallace in some villages before the cession of the Panch Maháls to the British Government. These lands may, therefore, be said to have been authorizedly in existence at the date of the cession, and cannot, under the terms of the Treaty, be resumed on the ground that service is not required; though, no doubt, they can be subjected to quit-rent in consideration of the service being dispensed with. The lands of Bhavaías and others who are altogether useless, should, therefore, in the villages settled by Colonel Wallace, as above stated, be subjected to a quit-rent of eight annas in the rupee, and continued; and those of carpenters and other servants, who are still made to render service, be continued without the imposition of the four-anna quit-rent, which is usually placed upon the lands of these descriptions of village servants. (G. R. No. 972, dated 17th February 1875).

18. It should not be left undetermined whether or not any village servants are Watandárs; Sections

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65 and 67 of Act III of 1874 require that registers shall be kept of the former. There appears to be no reason why No. 1 of the rules sanctioned in Government Resolution No. 7651, dated 28th December 1877, should not be applied to all Watandár village servants. The distinction between ancient and recent assignments is as regards them unnecessary and based on no substantial ground. In the case of inferior village servants who are not Watandárs the principle hitherto followed is to exempt them from a specified amount of assessment, and there is no reason why this principle should not be continued. The Commissioner may have power to reduce judi payable by Watandárs if the remuneration is insufficient, but the judi should in no case be increased beyond what is admissible under the rule above referred to. (G. R. No. 6241, dated 16th August 1895.)

WATANS.*

PART I.—PRELIMINARY.

1. A 'Watandár' is defined by the Hereditary Offices Act, Section 4, to mean 'a person having an hereditary interest in a watan.' A person having no present interest or share in a watan cannot be held to be a Watandár. The fact that he may possibly some day become the owner of the watan does not affect his present position with regard to it, which is that of an outsider. (L. R. No. 11, dated 3rd January 1883; *vide* G. R. No. 507, dated 20th *idem*.)

2. A Watandár is defined in Section 4 of Act III of 1874 to be 'a person having an hereditary interest in a watan.'

Hereditary interest means an interest that a person has obtained through, or which has descended to him from, an ancestor. According to Hindu law, a son by birth acquires an hereditary interest in ancestral estate. But the class that acquires such interest by birth is confined to the lineal descendants of the acquirer of the property, and does not comprise collateral members of the acquirer's family. Such collateral members have the possibility of succeeding to the property if the acquirer's descendants become extinct; but until such descendants become extinct such collaterals have no interest or estate in the property. There is no such thing as a vested remainder in Hindu law.

(Adv. Gen. No. 50,† dated 21st July 1883; *vide* G. R. No. 6444, dated 30th August 1883, and G. R. No. 1887, dated 28th February 1896.)

3. In Section 4 of Bombay Act III of 1874 "Watandár" is defined to mean "a person having an hereditary interest in a watan," and as a mortgagee has an hereditary interest in the property he holds as security for payment of the mortgaged amount so long as the debt remains unpaid, he is a Watandár within the meaning of the Act. The mortgagee can be registered as a representative Watandár when he has established a customary right to serve. (L. R. No. 1461, dated 12th December 1881; *vide* G. R. No. 7803, dated 22nd *idem*.)

4. The Collector has no jurisdiction to extinguish, or decide on, a claim to be recognised as a Watandár (I. L. R., 2 Bom., 370, *id.* 375, *cf.* 2 Bom. H. C. R., 342). His jurisdiction excludes that of the Courts, only on the question as to who are *representative* Watandárs. (I. L. R., 8 Bom., 25; Printed Judgments for 1877, p. 98; Printed Judgments for 1888, p. 224). No claim of a right to serve could be entertained in the Civil Courts (Section 4 (a) of Act X of 1876), but the right to a share in the watan might be the subject of a suit against those who claim the exclusive right to the profits. (L. R. No. 1146, dated 1st August 1892; *vide* G. R. No. 6776, dated 23rd *idem*.)

* *Vide* also "VILLAGE OFFICERS AND SERVANTS."

† This opinion is printed in *extenso* at p. 220 of the Compilation of General Rules. 3

PART II.—WATAN PROPERTY AND PROFITS THEREOF.

1. The following is the form of certificate to be forwarded to a Court under Section 10 of Bombay Act III of 1874:—

I, *A. B.*, Collector of _____, hereby certify to the Court of the _____ at _____ that the land (allowances or profits) herein below described, constitute (or form part of) the property of the watan of the _____ of mauzo _____ in the _____ taluka (and is, or are, assigned as the remuneration of the officiator), and is (or are), therefore, inalienable to any person other than a Watandar of that same watan (or than the officiator for the time being);

And I therefore, under the provisions of Section 10 of Bombay Act III of 1874, forward this certificate to the said Court of the _____ at _____ in order that the attachment placed under its orders (or that the sale, or order of sale, or transfer made by the Court) on the day of _____ last, at the instance of *C. D.*, in darkhast No. _____ of 18 _____, may be removed (or set aside).

(Signed) *A. B.*,
Collector.

Dated _____ 18 _____.

Description of the property referred to in the foregoing certificate.

(Signed) *A. B.*,
Collector.

(G. R. No. 2903, dated 21st May 1875.) ✓

2. As to the question whether the share of a sub-sharer in the profits of a watan is liable to attachment when it is not separately entered in the Government books, it does not appear, looking to the definitions of watan and watan-property in Act III of 1874, that it makes any difference whether a share of a sub-sharer in a watan is separately entered in the Government records or not. The only point the Collector has to satisfy himself about, and to certify to the Court, is that the property in question is a portion of the watan, or of the profits thereof. Of course, if the property has been in any way lawfully detached from the watan and no longer forms a part of it, there is no case for the issue of a certificate to the Court. (L. R. No. 139, dated 16th February 1878; *vide* G. R. No. 983, dated 23rd idem.)

3. In applications in the Civil Courts for certificates of heirship in cases in which the alienations of watans are liable to be perpetuated, or in which Government is otherwise interested, the Government Pleader should be instructed to watch the proceed-

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[WATANS.

ings of each case in the Court, and the Collector should see that the evidence of heirship tendered is trustworthy. (G. R. No. 945, dated 15th February 1881.)

4. No definite instructions as to when and how the Collector should interfere in respect of non-service watans falling within the scope of Sections 9 and 10 of the Bombay Hereditary Offices Act, 1874, are desirable or could very well be laid down. It is better that the Collectors should be left to deal with each case on its own merits, subject to the general power of Government to satisfy itself as to the propriety of the orders which are passed therein. (L. R. No. 153, dated 31st January 1882; *vide* G. R. No. 998, dated 13th February 1882.)

5. The Collector must decide on its merits each case in which a non-service Watandár applies for a certificate under Section 10 of the Bombay Act III of 1874, and there is no objection to the grant of a certificate to a sub-sharer whose name is not entered in the Government records. (G. R. No. 7903, dated 6th October 1884.)

6. The following opinion of the Remembrancer of Legal Affairs (No. 691, dated 21st March 1887) was communicated to the Divisional Commissioners and Collectors:—

“In reference to your memorandum No. 2355, dated the 19th ultimo, I have the honour to state my opinion as follows regarding the attachment of the cash allowance payable to the deshpánde of pargana Ahirváda, táluca Sholápur, under the circumstances explained by the Commissioner, C. D., in his No. B.—1079, dated the 28th March.

“It appears that Gopál Hanmant in 1863 obtained a decree of the Civil Court establishing his right as hereditary deputy to obtain payment of a certain sum annually out of the income of the deshpánde watan. In execution of this decree a warrant has been issued to the Mámlatdár of Sholápur directing that Rs. 658, otherwise payable to the deshpánde during the present month, be attached and forwarded to the Court for payment to Gopál Hanmant, the decree-holder.

“The question now is whether the Collector should issue a certificate under Section 10 of the Bombay Watan Act to set aside the Civil Court's process.

“In my opinion no such certificate can legally be issued.

“The first part of the section refers to cases where watan property, assigned under Section 23 as remuneration of an officiator, has passed after the Act came into force or may pass without the sanction of Government into the ownership or possession of any person other than the officiator.

“This portion of the section is clearly inapplicable. It is not contended that the cash allowance attached has been assigned as remuneration for the officiator, and as no deshpánde service is now required, there can apparently be no official remuneration.

“The second part of the section provides that when it appears that any part of a watan or any of the profits thereof or not so assigned has or have passed or may pass by virtue of or in execution of a decree into the ownership or beneficial possession of any person not a watandár of the same watan, the Court shall, on receipt of a certificate of the Collector stating that the property to which the decree or order relates is a watan or part of a watan or that such pro-

perty constitutes the profits or part of the profits of a watan,
* * * * remove any attachment or other process.

“Under the second part of [this section the Collector can only issue his certificate to prevent the watan or any portion of it passing into the hands of a person who is not a Watandár of the same watan.

“The question then is whether the decree-holder, Gopál Hanmant, is a Watandár of this watan.

“That question must, I think, be answered in the affirmative. It is true he is not registered as a representative Watandár, as when he applied in 1880 to be so registered the Collector held that as the deshpánde service was not required no one could be recognised as representative Watandár. With this decision, of course, the Courts cannot interfere, as it is a matter entirely within the cognizance of the Collector. But none the less Gopál Hanmant appears to be a Watandár of this watan though not registered as a representative Watandár. The distinction is explained in *Rámchandra vs. Anant* (Indian Law Reports VIII, Bombay, page 25).

“In the Watan Act Section 4, a Watandár is defined as a person having an hereditary interest in a watan. It seems hardly possible to hold that Gopál Hanmant has not such an interest. The decree of 1863 is not before me, but it is fully explained in the judgment of Westropp, C.J., in Miscellaneous Appeal 7 of 1876. It was there held that ‘Gopál’s status as hereditary deputy Watandár having been ascertained and established in 1863 is a fact which neither a Revenue nor a Civil Court could ignore or re-open. It is a *res judicata*.’ The decree declared that he had an interest in the watan and was entitled to receive therefrom a certain sum annually. He, therefore, fulfils the definition of Watandár given in the Act, and I do not think that any certificate ought to be issued under Section 10.

“It is true that one was given in 1875 which the High Court was unable to set aside, though their Lordships supposed it was passed in ignorance of the terms of the decree of 1863; and now no doubt, if a certificate were issued, the Courts would be obliged to act upon it.

“But although such a certificate, if granted, would be effective, it, of course, cannot be issued otherwise than as prescribed by the Act, and I think in 1875 it must have been given under some misunderstanding.

“It may be argued that the non-service settlement abolished Gopál’s office of hereditary deputy. No doubt the occasion for his services has ceased. But his interest in the original watan was a species of property of which he could not be deprived by any arrangement between Government and the deshpánde to which he was not a party. Service lands (or allowance) are a property, not merely a remuneration (*vide* the remarks of West, J., on page 215 of Indian Law Reports, Bombay, IX.): and this principle seems to apply no less to the emoluments of the hereditary deputy than those of the original deshpánde.

“For the above reasons I consider that no certificate can be issued in this case under Section 10 of the Watan Act and that the order of the Court should be accepted.”

(G. R. No. 4188, dated 7th July 1887.) ✓

7. In Cross-appeals Nos. 72 and 79 of 1888 from the Belgaum District, the Honourable Sir Charles Sargent and Mr. Justice Hart passed a decision on the 20th January 1890 (P. J. for 1890, 112, 113), which places the question of the inalienability of the district hereditary officers’ watan lands to which Gordon’s settlement was applied beyond doubt,

The present position of the matter is this, *viz.* :—

- (1) As regards alienations since the 28th January 1887 (the date on which Bombay Act V of 1886 became law), sub-section (2) of Section 5 of Bombay Act III of 1874, as amended by Section 1 of Bombay Act V of 1886, applies.
- (2) As regards alienations previous to that date which have already been finally adjudicated, nothing can be done.
- (3) As regards alienations previous to that date which have not already been finally adjudicated, the High Court's ruling quoted above should be relied upon.

Officers who receive notices for the attachment before judgment of amounts alleged to be payable at Government treasuries on account of "haks" are legally responsible for giving immediate effect to them and for holding the money, if any, payable as therein described in deposit until the further order of the Court. But if the "haks" have been subjected to Gordon's settlement and the case does not fall under clause (2) of the preceding paragraph, the Collector should issue a certificate to the Court under Section 10, Bombay Act III of 1874, as amended by Bombay Act V of 1886, Section 3, in order that the attachment may be removed. But until the attachment is removed by the Court, the money should be held in deposit. (L. R. No 1139, dated 4th August 1890; *vide* G. R. No. 5920, dated 20th *idem*.)

8. The Collector can grant certificate under Section 10 of Bombay Act III of 1874 in the case of a watan, in respect of which a settlement had been made under Gordon's settlement prior to the passing of the Act. (G. R. No. 3850, dated 22nd May 1895.)

9. The following opinion of the Remembrancer of Legal Affairs, No. 1599, dated 15th October 1890, was communicated to the Commissioners and Collectors :—

"One Ramchandra Anant Parchure claims the right to have his name entered as purchaser, at a Court's auction sale, of certain Deshmukhi and Sardeshmukhi lands.

"2. The Collector and the Commissioner have refused to grant the request. The lands in question were admittedly service lands, settled, not under the Act (Bombay II of 1863), but by the Gordon Committee.

"3. The Commissioner, N. D., expresses the view that the lands in question were under the ruling* quoted by the Honourable Mr. Naylor, C.S.I., in his No. 1139 of 4th August 1890, inalienable.

"4. Neither Mr. Naylor's report nor the High Court's judgment seems to go so far as to say that service lands under the Gordon settlement were or are absolutely inalienable.

"5. In the suit referred to, the ground on which plaintiffs relied was, that watan service lands could not be affected by auction sales in execution of decrees against their father *beyond his life*.

* *A'paji Bapuji vs. Keshav Sharmada*—B. H. C. P. J., 1890, p. 109.

"The Court observed: 'At the time when the Gordon settlements were made, service lands were regarded as the remuneration of the Hereditary Officer and made inalienable by Regulation XVI of 1827 (as construed by the Courts) *beyond the life of the actual incumbent.*' The High Court only considered 'how far *this* quality of inalienability was affected by the Gordon settlements.' It was not contended, much less held, that the Gordon sanads created any new and additional inalienability.

"6. Prior to Bombay III of 1874, watan service lands were regarded as held on a tenure of successive life estates, and *the prohibition against alienation, it was held, did not extend to an alienation for any period not exceeding the lifetime of the Watandâr, the incumbent.*

9 B. H. C. R., 282;
see also I. L. R. 10 B., 39,
and cf. I. L. R., 10 B., 372.

IV. B. H. C. R. 13, and
I. L. R. 1 B., 537.
Cf. I. L. R., 6 B., 211.
" " 7 B., 420.
" " 5 B., 439.
" " 14 B., 401.

"7. Bombay Act III of 1874, Section 5, prohibited *all* alienations of watan outside the watan family, unless sanctioned by Government, and thus restrained alienations even of the life estate.

"8. The Courts, however, recognise the injustice of allowing a man to take advantage of such a provision to repudiate charges created by himself on his own life interest. A Watandâr is therefore held estopped from profiting by the invalidity of his own alienations (I. L. R., 14 B., 404).

"9. The Legislature, perhaps with a view to prevent fraud as well as to enable life incumbents to deal with their own interests so long as they do not affect those of their successors, has (Section 1, Bombay V of 1886) limited the restriction to alienations extending beyond the term of the alienor's natural life. Section 7 of Bombay III of 1874, however, would still invalidate unsanctioned alienations of watan assigned as the remuneration of an officiator.

"10. It was only so long as Section 5 of Bombay III of 1874 remained unamended by Bombay V of 1886, Section 1, that an alienation of the *life estate* of unassigned watan was void without sanction. But, as pointed out, the alienor is estopped from urging the objection.

"11. The Collector no doubt *might* raise such objection in the interests of Government. But Government would probably never desire that he should do so in the case of a *non-service* watan, when, as no interests of Government are involved, such interference would operate merely to enable a man to repudiate his own debts.

"12. No doubt, it seems, can exist as to the validity of an alienation by an actual incumbent of his life estate, if effected—

(a) prior to Bombay III of 1874, or

(b) subsequent to Bombay V of 1886,

even without the sanction of Government.

"13. No alienation, however, beyond the life estate—

* I. L. R., 5 B., 437. (a) of* uncommuted service wa-
I. L. R., 10 B., 34.
P. J. for 1890, p. 109, tan, or
and cases quoted *supra*.

(b) of watan settled by the Gordon Committee,

is or ever was valid without the sanction of Government.

"14. When therefore a person claims recognition as the alienee of a watan of either of these descriptions, the first question to be considered is (if the watan be unassigned) whether the claimant's alienor is still the actual incumbent or not. If the alienor is still the actual incumbent, he cannot

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repudiate the charge on his life estate, and Government would probably refuse to do so and indeed could do so only if the alienation were between the dates* when Bombay III of 1874 and Bombay V of 1886 came into force.

* 5th February 1875 and 28th January 1887.

"15. In the present instance the alienation took place by Court sale in 1872. The claimant or his representative in interest therefore then purchased the life estate of the person whose interest he bought, but no more. The question is whether that person (whose name appears to be Hanmantráv Apáji Pátankar) is still alive. If he is dead, the life estate which was all the claimant could legally have bought, has ceased to exist, and the claimant has no right whatever to recognition by the Collector. But if that life estate still continues, an entry in the Collector's records recognizing the extent of the claimant's interest would probably be found convenient to protect the Revenue Authorities from error which might prejudice the claimant and give him a cause of action.

"16. The claimant cannot in any case demand the entry of his name in the Collector's book or sue if he is refused. For the books are kept for fiscal purposes and for the guidance and information of Revenue officers and not as evidence of title. But the Revenue Authorities, however, would be liable if, misled by the inaccuracy of those records, they took any course of action prejudicial to the claimant's rights, as for instance by ignoring the interest which he has to prevent a forfeiture. There could, it seems, be no objection to insert under the name of Hanmantráv Apáji, if he is still the incumbent, some such entry as the following :—

हणमंतराव आपाजी पाटणकर याचा
ताऱ्यात हक काटेपार्कत जिळावा। विकत
घनेरा रामचंद्र अनंत परजुरे.

"Ramechandra Anant
Parchure, auction pur-
chaser of the life interest
of Hanmantráv Apáji
Pátankar."

(G. R. No. 7675, dated 29th October 1890.)

10. Government concurred in the views expressed by the Legal Remembrancer in the following report and approved of the suggestion made in paragraph 7 thereof :—

"The Collector of Khándesh has, in consequence of Government Resolution No. 8443, dated 26th November 1890, forwarded to me, for revision and adaptation, a certificate to be issued to a Civil Court for the removal of attachment from certain watan property.

"2. The form of certificate drafted by me and approved by Government Resolution No. 3697 of 29th May 1890 was applicable to cases of attachment of watan assigned under Section 23 of the Bombay Hereditary Offices Act, 1874, as remuneration of an officiator.

"3. The Act gives special protection to the interests of the public service in such cases by declaring property so assigned 'not liable to process of any Civil Court.' It is inapplicable, but may of course be adapted to the case of an attachment of ordinary unassigned watan. In the case of unassigned watan, however, the power of alienation without Government sanction has, as I

No. 8513 of 20th December 1888. pointed out in the reports quoted in the Government Resolutions marginally noted, been recognised by Section 1 of Bombay V of 1886, as extending to the life interest of the alienating incumbent.

“4. The alienating incumbent is himself estopped from denying his right to alienate (I. L. R. XIV B., 404). But as noted in my No. 597 of 31st May 1890, Section 10 of Bombay III of 1874 was not modified in accordance with Bombay V of 1886, so that the Collector has still the power to issue a certificate in respect of an alienation which under the amending Act it is yet competent to the alienor to make without sanction.

Government Resolution No. 4282 of 19th June 1890.

“5. In my No. 1262 of 23rd November 1888 I ventured to lay stress on this anomaly, and to submit that Government would probably not approve of the Collector taking action so inconsistent with the spirit of the amending Act, merely to enable a man to repudiate his own liabilities when he would be estopped from disputing them on his own account.

“6. In the present instance the watan property is unassigned watan brought under the Gordon settlement. No doubt, it may, owing to the antinomy between Section 10 of Bombay III of 1874 and Section 1 of Bombay V of 1886, be legally *possible* for the Collector to issue a certificate under Section 10 of Bombay III of 1874 (see Printed Judgments of 1890, pages 112, 113). But I would submit that on the grounds stated in my No. 1262 of 23rd November 1888, it is improper that such interference should be made in cases of this nature, as it is not necessary to protect the interests of the public service and could only operate to enable debtors to repudiate liability for their own debts.

“7. I would venture to submit that the Collector's interference might be properly limited to cases affecting—

- (a) watan assigned as remuneration of an officiator,
- (b) watan on which it is attempted to enforce a charge or liability created by some person deceased,

in which case alone no private sale could take place without the sanction of Government.

“8. If every attachment affecting the life interest of a Watandár debtor is to be set aside by issue of certificate, the result will be that Watandárs will be able through the medium of the Collector to repudiate charges on their own life interests which they would be estopped from repudiating on their own account.

"9. This, I think, is opposed to the spirit of the law and probably also to the wishes of Government. But as no distinct orders have as yet, I believe, issued on the subject, I would venture before revising the certificate sent by the Collector of Khándesh to solicit the instructions of Government as to whether such certificates are to be made applicable to any attachments other than those referred to in my paragraph 7 above."

(L. R. No. 484, dated 4th April 1891; *vide* G. R. No. 2917, dated 28th idem.)

11. Section 9 of the Hereditary Offices Act, III of 1874, is inapplicable to alienations made before the Act came into force, and which took place either by virtue of, or in execution of, a decree or order of a British Court or with the consent of the Collector and a mutation of names in the revenue records. (L. R. No. 284, dated 5th March 1883; *vide* G. R. No. 2253, dated 19th idem.)

12. The terms of Section 12 (a) of the Hereditary Offices Act are sufficiently wide to authorize the Collector to evict a person whom, on appeal, he considers his Assistant has wrongly placed in possession of land under Section 9, and to make over the land to the person to whom he decides it should be given. (L. R. No. 293, dated 6th March 1883; *vide* G. R. No. 2507, dated 28th idem.)

13. In cases in which a portion or the whole of the watan lands of the village officers may be resumed but their services may still continue, the loss is simply that of the occupancy right of certain lands, and its value should be calculated on the principles that would regulate the compensation to be paid for the loss of similar rights to private individuals. This being thus compensated for, the diminution of profit by the loss of rent-free lands from the watan should be made up by a corresponding increase of cash remuneration equal to the assessment of the lands.

In cases in which in consequence of the resumption of the lands of villages the necessity for the service of village officers may cease or their scale allowances be diminished, the loss of occupancy rights in watan land should be similarly compensated for, and that on account of cessation of hereditary service or diminution of watan emoluments according to scale on a smaller realizable amount of land revenue separately considered. For this one-third of the full value of the watan in cases in which service may be entirely dispensed with, and one-third of the scale value of the land resumed or otherwise appropriated in cases in which service is continued but the watan emoluments diminished by the lessening of the village area, shall be deducted from the total value of the watan and that of the portion resumed or otherwise appropriated, respectively, and fifteen times the balance be paid to the hereditary officers concerned as compensation for the total or partial deprivations of their watans.

Where only such small portion of village lands may be left in any case as to render it advisable to incorporate them in an adjacent village, the sanction of Government should be obtained by the Commissioner on a report submitted in consultation with the Survey Department.

(G. Rs. No. 5974, dated 4th December 1872, and 5194, dated 16th September 1873.)

14. The decision in *Ráoji Baghunath vs. Mádharráo Vishwanáth* (2 Bombay High Court Reports, page 250) was passed in A. D. 1864, several years before the Hereditary Offices Act became law. It was based upon the ruling that the holder of an hereditary office was simply a tenant for life which the Court said 'had been frequently decided.' These decisions dated, in fact, from the year 1829, being based upon Section 20 of Regulation XVI of 1827. The Sadar Diváni Adálat's 'Interpretations' (Harrison's Code of 1840, Vol. 2, pages 757-8) of this section are the original authority for this course of decisions.

Section 20 of Regulation XVI of 1827 was, however, repealed by the Hereditary Offices Act, and the law substituted for it is that contained in Section 5 of the Hereditary Offices Act, which authorizes alienation to a Watandár of the same watan, but not to an outsider, except with the sanction of Government.

The hereditary office being a part of the watan (*vide* definition of 'watan' in Section 4 of the Hereditary Offices Act), the terms of Section 5* apply to alienations of it. To a Watandár of the same watan such an office may be alienated in perpetuity, or for life or any other term, at the owner's pleasure; to an outsider it cannot be alienated at all without the sanction of Government. If a representative Watandár alienates in a lawful manner his right of service, the alienee becomes thereby 'the representative Watandár' in his stead. Recognitions of transfers of hereditary offices should, therefore, be regulated by these considerations.

* Amended by Section 1 of Act V of 1886.

There ought to be no objection to substituting the name of the lawful alienee of a representative Watandár in the register, if there is no question and no doubt as to the alienation and as to its legality. When there is any question between the parties as to the fact of the alienation, or as to its validity as against any of them, they should be desired to produce a decree of a competent Court under Section 36 of the Act before any mutation of names in the register is allowed.

(L. R. No. 281, dated 5th March 1883; *vide* G. R. No. 2776, dated 7th April 1883.)

15. The conditions in Section 9 of Bombay Act III of 1874 that the Collector's consent should be obtained and there should be a transfer in the records, affect only transfers before the passing of the Act otherwise than by virtue of a decree of a Court.

When a watan or a part of a watan has before the date of the Act coming into force passed by virtue of or in execution of a decree or order of a British Court into the ownership or beneficial possession of any person other than the officiator, the watan or part of watan is liable under Section 8 only to a contribution for remuneration in like manner and to the like extent as if no such decree had been passed. (G. R. No. 8051, dated 11th October 1884.)

16. There is nothing to prevent watan property descending to a daughter's son when such person is the legal heir according to Hindu law. (L. R. No. 283, dated 27th March 1878; *vide* G. R. No. 1737, dated 4th April 1878.)

17. The following opinions of the Remembrancer of Legal Affairs on the question of the title of a daughter married out of a watan family to succeed to her father's watan and of her husband to officiate as her deputy were communicated to the Commissioners and Collectors:—

"Government have decided on several occasions that a daughter married out of a watan family is not by reason of such marriage divested of her rights and does not lose her status as Watandár.

"2. In the present instance it appears that the petitioner has already been recognised as representative Watandár and that under Section 51 of the Bombay Hereditary Offices Act, 1874, she appointed her husband to be her deputy. As Section 53 of that Act provides that none but a Watandár shall be appointed as deputy, the question is whether the petitioner's husband can be deemed to be a Watandár, that is 'a person having an hereditary interest in a watan' within the meaning of that section.

"3. The answer to this question must depend upon the decision of the other important question whether the watan property which a daughter inherits from her father is 'stridhan,' and, therefore, transmissible to her heirs, or whether it is a limited and restricted estate only, that is to say, which she is entitled to enjoy for her lifetime, and on her death devolves on the line of the last male owner, her father.

"4. If the watan is regarded as 'stridhan' it seems clear from the best authorities that on the death of the daughter her children are entitled to inherit it, and if she has no children, her husband will be her heir and on failure of him his nearest 'sapindás,' which term includes, on the father's side, all blood relations within six degrees together with the wives of the males, and on the mother's side, those within four degrees. Consequently no objection could be taken to the appointment of the Watandár's husband or one of his relations within those degrees as her deputy.

"5. There is, however, a very great difference of opinion on the subject. The Bombay High Court have ruled that according to Hindu law on this side of India property inherited by a married woman from her father descends on her death to her own and not to her father's heirs (*see* 1 Bombay High Court Reports, 209). Subsequently, the same Court held that the property acquired by a married woman by inheritance, with the exception of property inherited by a widow from her husband, classes as stridhan and descends accordingly (*see* 6 Bombay High Court Reports, 1). Lastly it was decided in an elaborate judgment by Mr. Justice West (8 Bombay High Court Reports, 244) that the Mitákshara (which is the highest authority in this Presidency) recognises only one class of 'stridhan' and includes in that

class *all* property acquired by a woman by inheritance, and if she has been married according to one of the approved forms, on her death childless, descends to her husband and his 'sapindás;' but over 'stridhan' acquired by inheritance her power of alienation is limited. So, too, in the latest case reported in Indian Law Reports (III Bombay, 171), the Chief Justice (Westropp) held that the daughter had succeeded not to a qualified estate, but to an absolute and several estate in her father's immoveable property.

"On the other hand the rulings of the High Courts of Calcutta and Madras are quite opposed to the Bombay rulings, and have been entirely approved of by the Privy Council in *Chotay Lall vs. Chimna Lall* (6 Law Reports, Indian Appeals, 15). In commenting on Mr. Justice West's judgment, the Chief Justice of the Calcutta High Court in this case pointed out that there was no substantial difference of opinion on the law between the Calcutta and Madras High Courts and that they ought not to unsettle the law which had been received for the last fifty years on account of the opinion of a Judge of the High Court at Bombay, however learned he may be. The Privy Council observed that the question of the daughter's estate cannot be considered as '*res integra*;' that the result appears to be that the Courts in Bengal and Madras have determined in a series of decisions that the daughter takes a qualified estate only, whereas in the Courts of Bombay there have been rulings and *dicta* in favour of the view that she takes the entire property. But 'their Lordships do not think it necessary, especially after their own decisions as to widows' estates, to go into an examination of the Indian cases. They agree in the conclusion of the Calcutta High Court affirming the law as stated by Sir William Macnaughton, that immoveable property acquired by a daughter by inheritance, on her death in default of issue male, goes not as 'stridhan' to her husband or other heir, but reverts to her father's heirs.'

"7. It must be observed that this difference of opinion rests on a different interpretation of old and obscure texts. The original text of the *Mitákshara*, it is stated in the above judgment of the Privy Council, does not afford any foundation for the argument in favour of the right of the daughter to the entire interest in land acquired by inheritance, though the interpretation of the Commentator, *Vijnaneshvar*, on which Mr. Justice West's reasoning rests, does. It seems, therefore, that there is a preponderance of decisions against the Bombay rulings. What would be the result of an appeal to the Privy Council from this Presidency it is not easy to say. Mr. Justice West observes that it is reasonable to suppose that in such case his arguments would have much weight with their Lordships. In the Calcutta appeal, however, the Privy Council had an opportunity of weighing the Bombay rulings as they are carefully reviewed in the judgment of the Chief Justice Couch which was on appeal before their Lordships. The conclusion come to by their Lordships is that it was unsafe to open the question and unsettle a rule of inheritance affirmed by a long course of decisions.

"8. The question of course now is whether Government should follow the law as stated by the Bombay High Court or as it is stated by the High Courts of Bengal and Madras, and recognise the female *Watandár's* husband or his relative as having an hereditary interest in the *watan*.

"9. In deciding this question it must be remembered that the Bombay rulings extend over a period of some twenty years and were laid down by Judges whose reputation for learning is beyond all question—Sir Mathew Sausse, Sir Joseph Arnold, and Mr. R. West, and have been followed and accepted as the law by the people of this Presidency. The Bengal and Madras rulings, though entitled to every respect, are not binding here, while the judgment

of the Privy Council cannot be said to decide the question in its direct applicability to the people of this side of India.

"10. On the next occasion of the question arising as it almost certainly will, the Bombay High Court Judges will have to decide it in the light of the Privy Council's decision, and it remains to be seen whether the High Court will adhere to its former view of the law as applicable to this Presidency or will alter it in accordance with the views of the Bengal and Madras Courts.

"11. I can, therefore, see no objection to the Bombay rulings being followed in the present instance, as it is clear the husband is otherwise fully competent to officiate as deputy for his wife. Government can safely leave it to the members of the original Watandár's family on the death of the female representative Watandár to contest with her husband or his relatives the question of the devolution of the watan estate which I have now discussed." (L. R. No. 323, dated 13th March 1882.)

"In continuation of the remarks contained in my report No. 323 of 13th instant on this difficult question of Hindu law, I now beg to draw the attention of Government to a remark made by Mr. Justice Melvill in a case reported in the last number of the Indian Law Reports (*see* Volume VI, Bombay Series, page 87, *Bulakhidás vs. Keshavlál*). Mr. Justice Melvill says: 'In this Presidency, and especially in Gujarát from whence this case comes, the Vyavahara Mayukha is a principal authority, and on the strength of Chapter IV, Section 8, paragraph 10 of the Mayukha it has become the established rule in this Presidency that daughters take by inheritance an absolute estate and not a limited interest as they would under the Mitákshara.' It seems quite clear from this remark that the interpretation of the Mitákshara which has been unhesitatingly adopted by the Privy Council must be accepted in this Presidency, but inasmuch as the Mayukha is a principal authority in this Presidency and more especially in Gujarát, we must fall back on the Mayukha which Mr. Justice Melvill declares to be a sufficient authority that daughters take not only absolute but several estates, and consequently, when not having any issue, may dispose of such property during life or may devise it by will." (L. R. No. 342, dated 17th March 1882.)

(G. R. No. 2318, dated 8th April 1882.)

18. A Collector having enquired, with reference to Government Resolution No. 2318 of 8th April 1882, how the names of heirs are to be entered in the watan register of patelki and kulkarni watans in the following cases:—

1. A representative Watandár dies leaving 5 widows of different ages and married at different times, some under 'lagna' ceremonial and others under that of 'pat.' How and whose names should be registered? Is the Collector to find out who is the eldest of them, and if so, is the seniority to be determined by her age or by precedence in marriage?

2. A representative Watandár dies leaving no male issue nor a widow, but three daughters married to different persons in different families: which of the three should be entered? Legally they have equal rights. Are they, then, all three to be registered as representative Watandárs and a rotation established against the custom of the watan?

3. A representative Watandár dies leaving two widows, one of them was married under 'lagna' ritual and the other under that of 'pat.' The eldest widow dies leaving a daughter, who prays she may be recognized as representative Watandár. The widow, her step-mother, claims to be entered as representative Watandár. Should the name of the widow be registered?

4. There is a Hindu watan family of which one member is registered as representative Watandár. He dies leaving a daughter and also four brothers. The family is divided as regards other property, but undivided as regards the watan; are the brothers to be entered as representative Watandárs in preference to the daughter?

the following opinion was recorded by the Remembrancer of Legal Affairs:—

"The term 'nearest heir,' which is used in Section 36 of Bombay Act III of 1874, is not a very accurate one; but looking to the fact that only one person's name can be registered in the room of that of a deceased representative Watandár, whilst there may frequently be several co-heirs of the deceased person all equally near to him in relationship, the meaning of the Act is not, I think, doubtful. Thus in his report No. 325 of 13th March 1882, the late Mr. Cordeaux, when acting for me, submitted an opinion that the Collector should register the elder of two daughters of a deceased female representative Watandár as the representative Watandár in her stead, and Government, in their Resolution No. 2321 of 8th April 1882, approved of this advice. The context shows, I think, that what the section means is that the Collector should recognise as representative Watandár the senior amongst co-heirs of the same degree of relationship and the nearest relation amongst heirs of different degrees of relationship. And by senior I do not mean the eldest in age, because a second or third wife is often older than her predecessor or predecessors, but I mean the one who, whether by birth or marriage, first acquired the status which gave him or her the right of inheritance.

"2. Following this view of the intention of the law, I would answer the Collector's questions thus:—

1st.—The senior of the five widows by precedence in marriage should be the representative Watandár.

2nd.—The eldest daughter should be recognised as representative Watandár.

3rd.—The daughter does not inherit so long as a widow survives; the widow, therefore, has been rightly recognised as the representative Watandár. There is no difference as regards the right to inherit between a 'lagna' wife and a 'pat' wife.

4th.—The family must be regarded as undivided, in which case the three brothers are the deceased's heirs, and the eldest of them should be recognised as representative Watandár."

(L. R. No. 545, dated 17th April 1884; *vide* G. R. No. 3530, dated 2nd May 1884.)

19. A daughter takes by inheritance an absolute estate just as a son would, but, if the estate be watan, the interest therein is so far limited by express enactment as provided in Section 5 of the Bombay Act III of 1874.* (L. R. No. 1375, dated

* *Vide* also Section 2 of Bombay Act No. V of 1886.

18th October 1882; *vide* G. R. No. 7789, dated 7th November 1882.)

20. The word 'through' in Section 2 of Act V of 1886 implies some intermediate link between the claimant and the last holder, and does not apply to the case of a son claiming his mother's property as such. It can hardly be said that a person claiming direct from the last holder in whom the whole estate was vested, claims through such holder.

The Full Bench decision of *Bhāgīrthibāi vs. Kāhnujīrāv*, 11, I. R., Bombay, 285, decided that under the Hindu law prevailing in the Presidency of Bombay a daughter inheriting from either mother or father takes an absolute estate which passes on her death to her own heirs and not to those of the preceding owner. This decision overruled the opinion expressed in the case of *Dalpat vs. Bhagvan*, 9, I. R., Bombay, 301, that daughters would not take such an absolute estate in cases governed by the Mitākshara, and lays down the law on the point for this Presidency. It follows that law over the whole of the Bombay Presidency that the heirs of a daughter on whom a watan had devolved before Act V of 1886 came into force will succeed to it on her death.

(L. R. No. 102, dated 24th January 1888, and Adv. Gen. No. 11, dated 24th February 1888; *vide* G. R. No. 2793, dated 3rd May 1888.)

21. Section 2 of Bombay Act V of 1886 enacts that, with one exception, every female member of a watan family is to be postponed in the order of succession by inheritance to the watan property to every male member of the family qualified to inherit. This provision is obviously intended to operate whilst there are both male and female members of the family entitled, under the law of inheritance applicable to them, to succeed to the watan property. It deprives it of all meaning to hold that it operates only when no male member of the family qualified to inherit any longer survives. It is not, therefore, right to hold that the one female excepted by the section from its provision, *viz.*, "the widow of the last male owner," can only claim the benefit of the exception, when owing to failure of male heirs, the property would otherwise lapse to Government. The words "last male owner" do not mean, as suggested by Mr. East, only the last surviving male representative of the watan family. The section applies at every succession by inheritance to watan property. If, according to the law of the parties, a female would on any occasion succeed, she, unless she be the widow of the last male member of the family who owned the property, is to be postponed in the order of succession to every male member of the family qualified to inherit. (L. R. No. 1229, dated 24th July 1891, and Adv. Gen. No. 82, dated 29th August 1891; *vide* G. R. No. 6102, dated 16th September 1891.)

22. In the case, 5, Bombay High Court Reports, 161, it was held that 'where there is a plurality of wives equal in caste, the sons of each wife (not being the first wife) take precedence according to the dates of their respective births and without reference to the dates of the marriages of their respective mothers.' In that case the litigation was between the son of a second wife and the son of the third wife, so that it was unnecessary for the Court to decide, and it did not decide, how the law would be as between the son of a first wife and the son of any subsequent wife.

The Bombay High Court followed in that case the decision of the Madras High Court in *Sivananjanja vs. Muttu Ramalinga* (3, Madras High Court Reports, 75) in which it was held that 'as regards the rights of sons by different wives to inherit* * * (except perhaps the son of the first wife) the priority in point of time of their mothers' marriages has never been regarded when the wives were equal in caste and rank.' In the case, also, the Court did not decide whether a distinction exists in favour of the younger son of a first wife, but merely said that 'perhaps' the case of such a son is exceptional.

In *Ramalakshmi Ammal vs. Sivanantha Perumal Sethurayar* (14, Moore's Indian Appeals, 570) the Privy Council also decided to the same effect as the above, still leaving the question as to the legal position of a junior son born of a first wife an open one.

But in *Pedda Ramapa vs. Bangari Sheshaunna* (Indian Law Reports, 2 Madras, 286) the Privy Council distinctly held that there was no distinction between the son of a first wife and of any subsequent wife. It was held generally that 'among sons born of wives equal in their class, and without any other distinction, there can be no seniority in right of the mothers.' It is true that the dispute in this case was between the son of a third wife and the son of a fourth wife. But it was claimed for the former that after the death of the first and second wives his mother (the third wife) stood in the position of a first married wife, and it was on this ground that their Lordships inquired into and settled the position of a son of a first married wife.

It is, therefore, now settled law that the junior son of a first married Hindu wife takes no precedence over the senior son of a subsequent wife, if both wives are of equal class.

(L. R. No. 326, dated 4th March 1884; *vide* G. R. No. 2499, dated 21st idem.)

23. Amongst Sudras the right of succession undoubtedly devolves on illegitimate sons in the absence of legitimate sons, sons' sons or sons' sons' sons. It does not appear that watan property form any exception to the general rule of succession in this respect. (L. R. No. 1695, dated 22nd December 1884; *vide* G. R. No. 104, dated 7th January 1885.)

24. According to the general Hindu law, as interpreted by recent decisions, it seems clear that a

widow's own heirs can never succeed to immoveable property inherited by her from her husband. See Mayne's Hindu Law, paragraphs 519—525, *Bhagvandas vs. Mynabai*, 11 Moore I. A., 487, 513, and *Collector of Masulipatam vs. Cerey*, 8 Moore I. A., 529.

But this, like all other rules of Hindu law, is liable to be overruled by proof of a special custom to a different effect, and the passages in Steele, 231, West and Bühler, 540 and 541, and the opinion cited at West and Bühler, 546, point to there being in some parts at least of the Deccan a custom under which a widow's own heirs do in the absence of any heir of her husband succeed on her death to immoveable property inherited by her from him.

(Adv. Gen. No. 12; dated 24th February 1889; vide G. R. No. 6288, dated 27th August 1889.)

25. Section 9 of Act III of 1874 does not apply to cases in which a watan, its profits, or part thereof, have passed into the ownership of, or beneficial possession of, a person who is a Watandár of the same watan.

A Watandár is defined in Section 4 as a person having "an hereditary interest in a watan."

<p>* (1) Legal Remembrancer's No. 11 of 3rd January 1883 (Government Resolution No. 507, Revenue Department, of 20th January 1883).</p> <p>(2) Legal Remembrancer's No. 554 of 27th April 1883.</p> <p>(3) Advocate General's No. 50 of 21st July 1883.</p>	<p>} Government Resolution No. 6444, Revenue Department, of 30th August 1883.</p>	<p>The meaning of the phrase "having an hereditary interest in a watan" has been discussed* in the marginally noted papers.</p>
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The arguments in those papers seem to show that no one has an hereditary interest in a watan, or can be regarded consequently as a Watandár, until he has actually succeeded thereto, unless he is of the class known to Hindu Law† as unobstructed (*apratibandha*) heirs, that is, sons, sons' sons and their sons.

† Mayne on Hindu Law, Sections 247, 248.

Sons' sons and their sons have an interest in the ancestral property vested in them from their birth. The interests of all other persons who *may* succeed are contingent and dependent on default of persons preferentially entitled, and as their titles may be defeated by unforeseen contingencies, they have no hereditary interest till they actually succeed in the absence of other heirs.

Under Regulation XVI of 1827, Section 20, no person could succeed who was not of the family in which the office was vested.

A married daughter is not, strictly speaking, of her father's family,‡ but on marriage enters the *gotra* of her husband.

‡ West and Bühler, 129.

The object of the Regulation was to keep the watan in the family to which it was originally granted. A daughter takes an absolute estate,* her own heirs inherit † and she becomes a new stock of descent. ‡ The Sadar Diváni Adálat seems to have held § that females were precluded by Section 20 of Regulation XVI of 1827 from succeeding to a watan.

* I. L. R., XI B., 285.

† West and Bühler, 335.

‡ Maine, Section 479.

§ *In re Gulab vs. Abherám et al.* 19th May 1832.

§ Bom. H. C. Rep., 85, note.

|| 5 Bom. H. C. Rep., 202, A. C. J.

§ Bom. H. C. Rep., 83.

Bom. H. C. P. J., 1872, S. A. No. 304 of 1871, 8th March 1872.

¶ Bom. H. C. P. J. 1881, p. 270.

Subsequent, however, to the passing of Act XI of 1843 the High Court has frequently recognised the right of a female, even as a daughter, || to succeed, as she is "allowed to appoint a deputy" ¶ and is bound if required to furnish an efficient substitute. ¶

Section 20 of Regulation XVI of 1827 having been repealed by Bombay III of 1874, Section 2 and Schedule (*vide* Act XII of 1876, Section 1), the words "hereditary interest" must now be taken in their ordinary meaning of an interest acquired under the ordinary law applicable regulating inheritance, except so far as it may be altered by express enactment.

Bombay III of 1874 thus left to ordinary Hindu Law as modified by special custom, the devolution of watan property among Hindus, and daughters and daughters' sons, though of a different family, in the absence of special custom, would succeed to watan as to other property. That the Legislature contemplated this as the result of Bombay III of 1874, appears from the express legislation** by which it deemed it necessary to postpone males claiming through a female (who must necessarily be of another family) to males otherwise entitled.

Under Bombay III of 1874, therefore, a daughter was, until Bombay V of 1886 became law, entitled, in default of unobstructed heirs and on the death of the widow to succeed, to divided watan in the absence of special custom excluding her.

The Courts have decided that there were no preferential heirs, that the property was divided, that there was no special custom excluding Sakubái, and declared her right to succeed.

At the time that the property passed into her ownership and possession therefore she was a Watan-dár, having an interest already actually acquired by descent, and Section 9 has therefore no application to her.

This appears to be in accordance with the view taken by Mr. Fulton †† as concurred in by

†† In his report No. 102 of 24th January 1888, paragraph 11.

PART II.]

[WATANS.]

* No. 11 of 24th February 1888.
Government Resolution No. 2793,
dated 3rd May 1888, Revenue Department.

the Honourable
the , Advocate
General.*

Bombay V of 1886 cannot affect the case, the presumption being in the absence of express provision that enactments taking away or impairing

† Maxwell on Interpretation of Statutes, 192.

Cod 1. 14, 7, Broome's Legal Maxims, 35, 5th Edition.

vested rights acquired under existing laws, were not intended to have a retrospective operation.† Leges et constitutiones futuris certum est dare formam negotiis, non ad facta præterita revocari; nisi nominatim et de præterito tempore et adhuc pendentibus negotiis cautum sit.

(L. R. No. 1840, dated 10th December 1890; vide G. R. No. 474, dated 20th January 1891.)

26. On the question whether one born only one month after the marriage of his mother with one G., could, for the purposes of inheritance, be regarded as the son of the said G., the mother having been formerly the wife of another man, J., the following opinion (No. 893, dated 1st June 1892) was recorded by the Remembrancer of Legal Affairs:—

“Ordinarily under Hindu Law a son born in wedlock is held legitimate though begotten before it⁽¹⁾. Such a son was called Sahodha⁽²⁾. A presumption of legitimacy would also arise under Section 112 of the Evidence Act I of 1872.

“If R.'s mother and G. were Sudras, R. would succeed to G.'s rights, even as his illegitimate son, provided that the intercourse was not adulterous and unlawful, in which case he could only claim maintenance and not inheritance. §

“In the present instance it is not stated that the birth of R. took place before the dissolution of the marriage between R.'s mother and her former husband J., or so soon after as to make it impossible that he should have been the son of G. by intercourse other than adulterous.

“The presumption therefore is that R. was the son of G. and entitled to succeed him, and it is for those who dispute that right to sustain the onus of showing that R. was the offspring of bigamous or adulterous intercourse.

“It is impossible to venture an opinion as to the question of fact whether R. were the son of J. or of G. Whether R. was the offspring of intercourse which would disentitle him, under the case above cited, to anything beyond maintenance, would seem to depend on the interval between the dissolution of the first marriage and R.'s birth, and in case of doubt R. is entitled to the benefit of it.”

(G. R. No. 5053, dated 17th June 1892.) ✓

27. The following opinion of the Remembrancer of Legal Affairs (No. 1778, dated 23rd December 1892) was communicated to the Divisional Commissioners and the Collectors for information and guidance:—

WATANS.]

[PART II.

"Assuming the facts to be as stated, *viz.*, that the deceased P. (a representative Watandár in the pátilki watan of U.) has left no kindred but her sister's daughter T., that the family is governed by Mahomedan law, and that there are no other claimants except one C., who claims as the adopted daughter of deceased, there does not seem to be any reason for doubt that T., the daughter of deceased's sister, should succeed, and would exclude the right of the Crown.

Macnaghten's Precedents of Mahomedan Inheritance, Chapter I, Case VI.

"Adoption confers no right of inheritance.

Macnaghten's Principles of Mahomedan Inheritance, Section 45.

"Sisters' children are included in the third class of distant kindred under Mahomedan law.

"It is only in default of the four classes of distant kindred and of persons acknowledged by the deceased as kinsmen, and in the absence of a will that the property will escheat to the Public Treasury, but this only when no individual has the slightest claim."

(G. R. No. 575, dated 20th January 1893.)

28. When there are two or more distinct taksims in connection with one hereditary office, the Watandárs belonging to the different taksims should be treated as Watandárs of the same watan for the purposes of Part II of the Watan Act. (G. R. No. 7220, dated 30th September 1897.)

29. A widow cannot sell (and, therefore, a purchaser cannot buy) more than what is owned by the widow. Sales of shares to co-sharers should be encouraged as tending to reduce the number of shares, but for a purchaser to acquire an absolute right in a share purchased from a childless widow, it would be necessary for all the reversioners (co-sharers) to assent to and join in the sale. (L. R. No. 1279, dated 1st October 1885; *vide* G. R. No. 8617, dated 24th idem; *vide* also G. R. No. 3418, dated 8th September 1868).

30. As regards the question whether the holder of a service inám land can be ousted from his occupancy and forced to take other land in exchange, because his service holding is required for a public purpose, as for instance reserved forest, it appears that the only way in which an exchange could be enforced would be by Government resuming the existing service holding and afterwards making a fresh grant. But there is no provision in the rules concerning the resumption of service holdings, that Government may resume them whenever the land comprised therein is required for any public purpose. Service lands have always been acquired, when necessary, under the Land Acquisition Act. (L. R. No. 505, dated 19th April 1886; *vide* G. R. No. 3685, dated 21st May 1886.)

31. Watans consist of (1) lands, (2) cash allowances, and (3) right of service. When watan land is required for a public purpose, it may be acquired, like any other land, either by agreement or, if necessary, under the Land Acquisition Act. Cash allowances may be dealt with by Government at

their pleasure, seeing that the Pensions Act protects them from suits in the Civil Courts in respect of such payments. In the case of an allowance enjoyed as remuneration for service, the payment would naturally be ordered to cease when the service is no longer performed or required by Government. For loss of the right of hereditary service, with the emoluments and advantages appertaining to it, a Watandár has a good claim to compensation, and if he is not satisfied with any terms Government may think fit to authorize the Collector to offer him, his claim will be entertainable by the Civil Courts. The Land Acquisition Act is not applicable to the acquisition of such rights. (L. R. No. 1635, dated 20th December 1886; *vide* G. R. No. 323, dated 14th January 1887.)

32. The will of a Hindu is, so far as it affects property, a deed of gift and takes effect to the same extent only as a gift of the property would be valid. Under Section 5 of the Hereditary Offices Act a gift of a watan is invalid without the sanction of Government.

The will in so far as it alienates the watan without the sanction of Government to a person who is not a Watandár of the same watan is invalid.

(L. R. No. 599, dated 12th May 1886; *vide* G. R. No. 4055, dated 7th June 1886.)

33. Section 5 of the Watan Act is to be given effect to when the alienation introduces no innovation in the original custom of the watan service and is not contrary to the provisions of the Act in other respects. (G. R. No. 6272, dated 3rd September 1886.)

34. The following opinion of the Remembrancer of Legal Affairs, No. 1262, dated 23rd November 1888, was circulated to the Collectors and Commissioners for information and guidance:—

“The question raised in the correspondence which accompanied Government Memorandum No. 5515, Revenue Department, dated 14th August 1888, is whether the Collector can under Section 11 of the Watan Act declare null and void an alienation which a Watandár was competent to make under Section 5 of the Act as amended by Bombay V of 1886.

“2. The facts are—

A Watandár mortgaged part of the watan property in 1878 for Rs. 300.

He offered to redeem.

The mortgagee refused to allow immediate redemption.

The Watandár complained to the Assistant Collector, Mr. Wiltshire, who under Section 11 of the Act ordered restoration of the property to the Watandár.

“3. On appeal the Collector considering the alienation valid under Section 5 of the Act as amended by Bombay V of 1886, as far as the life interest of the mortgagor was concerned, declined to act without the orders of Government.

“4. The Commissioner, S.D., thinks Section 11 empowers the Collector to protect only inalienable watan and that the Collector cannot declare null and void the alienation of an alienable interest.

WATANS.]

[PART II.]

"5. I doubt however whether the words 'therefore inalienable' in Section 10 of the Act would have the effect. They are not operative but only inserted as words to be used in the certificate, and it may be doubted if they apply to any words in that section but those with which they are coupled, *viz.*, 'assigned as the remuneration of an officiator.'

"6. Until the Act was amended by Bombay V of 1886, all the alienations mentioned in Section 10 were *ab initio* void, including unsanctioned alienations of unassigned watan to non-Watandárs.

"7. The Amending Act rendered alienations of the kind last mentioned valid for the life interest of the alienor, but it did not by express words take away the power of the Collector to declare such alienations null and void.

"8. This was probably an oversight. The point seems to have been noticed in the Rules* made under the Act which were amended by Government Resolution No. 2793, Revenue Department, of 3rd May 1888, paragraph 2, to suit the change in the law, the words 'an illegal transfer' being substituted for the words 'a transfer.'

"9. The consequence is that under the strict wording of the law the Collector would retain the power in the interests of Government to declare such an alienation null and void, while the Civil Courts could not refuse to enforce it as an alienation valid so far as the life interest of the alienor is concerned.

"10. The words the 'Collector shall' in Section 11 are no doubt imperative. But Government alone could insist on their being enforced.

The mortgagor would be estopped from taking advantage of his own wrong, and now that he has the title which he professed to mortgage, he has no legal or equitable right to demand the restoration of the land to himself without redemption.

"11. If, therefore, the Collector has the power under Section 11 to declare the alienations void, there is no reason why such power should be exercised in contravention of the rules framed by Government.

"12. But I think that Sections 10 and 11 of the Act, so far as they affect alienations of life interests in 'unassigned' watans, were repealed by implication under Bombay Act V of 1886.

For 'if the co-existence of two sets of provisions would be destructive of the objects for which they were passed, the earlier would be repealed by the latter.'

"13. I therefore think that the Collector should refuse to exercise any summary powers in this case. The mortgagor has his remedy in the Civil Courts, and apparently the mortgagee is now willing to allow redemption.

"14. I may note that Section 11 only enables the Collector to declare the alienation of the watan property null and void and does not annul the liability of the alienor to pay the debt."

(G. R. No. 8513, dated 20th December 1888.)

35. There can be no doubt from Sections 4 and 9 of Act III of 1874 that it was not intended that the latter section should ever be enforced to deprive a person of a holding acquired before the introduction of the British Government. Such a person by Section 4 is to be regarded as himself a Watandár, and Section 9 clearly refers only to transfers whose invalidity was due to their not having been effected

by virtue of a decree of a British Court or with the consent of a Collector.

Even before Bombay III of 1874, *wherever Regulation XVI of 1827 was in force*, an alienation of watan property was no doubt inoperative beyond the life time of the alienee.

It was therefore entirely consistent with the presumable intention of the Legislature that retroactive effect should be given to Section 9 in respect of all alienations made *where Regulation XVI of 1827 was in force*. For that section did not affect the substantive law, but only the procedure, and the presumption against a retrospective construction has no application to enactments which affect only the procedure.

Maxwell on Interpretation of Statutes, 199.

It is quite otherwise, however, when a retrospective construction would affect the validity of past transactions.

It is when the enactment would prejudicially affect vested rights, or the legal character of past Acts, that the presumption against a retrospective operation is strongest. Every statute which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, or imposes a new duty, or attaches a new disability in respect of transactions or considerations already past, must be presumed, out of respect to the Legislature, to be intended not to have a retrospective operation.

Section 4, moreover, clearly indicates that the Legislature intended to regard as a Watandár any person actually holding watan property acquired by him before the introduction of the British Government.

(L. R. No. 828, dated 16th July 1889; *vide* G. R. No. 5620, dated 3rd August 1889.)

33. The following opinion (No. 997, dated 13th August 1889) was recorded by the Remembrancer of Legal Affairs on the question whether under general Hindu law the assent of heirs is essential to alienations by partition of estate :—

“It is a general principle of law that all co-parceners must be joined in a suit for partition, A son is not an heir, that term being misleading if applied to the case of a Hindu son's relation to his father. He is a co-parcener with a vested interest in the ancestral estate from his birth. He cannot dispute a partition made before his birth, but he is not necessarily bound by a suit for partition brought by his father's brothers against his father to which the son himself has not been made a party.”

(G. R. No. 6728, dated 9th September 1889.)

37. A watan being an estate held from Government is subject to special rules both as to devolution

and as to the capacity for proprietorship. Government usually has bestowed it on a particular family with reference to the special fitness of that family on account of caste or social or political status for the performance of certain public services annexed as an obligation, though not as a condition, to the grant. Enjoyment by that family is thus an essential element of the tenure. This being so, the tenure fails on the entail, so to speak, being broken and the property passing into the possession of one not a member of the family of beneficiaries. This is recognized in an important Full Bench judgment of the Bombay High Court, reported at pages 198—232 of the Indian Law Reports, IX, Bombay Series. If then the original family of Watandárs have allowed themselves to be ousted so long or in such wise that they can no longer assert their right against the intruders, the result is not to destroy the latent ultimate right of the donor on terms as reversioner, *i.e.*, Government, but to bring the reversionary right into immediate operation. The ousted Watandárs if they have conspired with the intruders have been guilty of a fraud on the donor tending to the destruction of the residuary estate, which is recognised as a ground of forfeiture of the tenure. If they have been put out by force or fraud or the operation of any particular law, their estate has simply perished and that out of which it was carved (*viz.*, the estate of Government) becomes integral again. The intruders cannot as against Government take advantage either of the fraud or the negligence of the tenant Watandárs so as to destroy the higher estate of the sovereign except when the right of the latter is barred by limitation. Watan lands are also service lands and Government under general rules to that effect may resume them at discretion. (G. R. No. 6890, dated 13th September 1889.)

38. The question whether rent can be demanded from an alienee of watan land under Section 9, clause 2, without a declaration that the alienation is null and void, answers itself when the effect of such a declaration is considered. A declaration that an alienation of watan property is null and void does not invalidate or annul the whole transaction. It does not relieve the alienor from personal liability, but only affects the alienation of the watan property. When the alienation was prior to the act and the watan property consists of land it is lawful* for the Collector under Section 9, clause 2, to leave the alienee in possession of the land and to recover full rent from him. But in such case the rent is regarded as the profits. The Collector's procedure in such case necessarily has the effect, therefore, of annulling the alienation of the profits. The transaction does not require to be annulled. The recovery of the profits, *i.e.*, of the rent which shall be considered as the profits, operates as annulling the alienation of the profits, leaving the rest of the transaction un-

* For proper construction of the words "it shall be lawful" occurring in Section 9, clause 2, of Act III of 1874, *vide* G. R. No. 9198, dated 21st November 1895.

touched. The Collector has no power to do more than declare the alienation of the profits of the land alienated null and void, and his order for such recovery is an implied declaration that such alienation is null and void. There is in such a case no necessity or legal justification for any declaration beyond that, and if the declaration required to be expressed in words, it could merely declare that the alienation of the profits was null and void. The transaction is otherwise unaffected. The other incidents expressed or implied in the contract stand as they were before. Thus the liability for the debt and in case of a mortgage the equity of redemption or in case of a lease the limit of the term would be unchanged by the declaration. (L. R. No. 61, dated 13th January 1890; *vide* G. R. No. 947, dated 4th February 1890.)

39. The certificate to be sent by Collectors to the High Court under Section 10 of the Watan Act in cases of attachment of watan assigned under Section 23 as remuneration of an officiator should be in the following form. The certificate should in each case before signature by the Collector be sent to the Remembrancer of Legal Affairs for revision as the circumstances in each case may require.

Certificate under Section 10 of Bombay Act III of 1874.

I, _____ Collector of _____ hereby certify to Her Majesty's High Court of Judicature, Bombay, that the cash allowance hereinbelow described is watan property assigned under Section 23 of the Bombay Hereditary Offices Act, 1874, as remuneration of the officiating of _____ Taluka of the _____ District, and is therefore inalienable and is not liable to process of any Civil Court.

The Second Class Subordinate Judge of _____ having on the _____ day of _____ 18 at the instance of _____ in darkhást No. _____ of 18 in execution of the decree passed by the Honourable the Judges of Her Majesty's High Court of Judicature at _____ (Names of Parties). _____ Bombay in (?) Appeal No. * issued an order for the partition of the said cash allowance this certificate is, under Section 10 of the said Act, forwarded to the said Court at Bombay in order to the removal or setting aside in accordance with Section 13 of the said Act, of any attachment or process placed on, or of any sale of or affecting the said property or the profits thereof.

Property assigned as remuneration to the officiator :—

“ One-half of the cash remuneration of Rs. 37 annually payable to the officiating _____ from the Sub-Treasury.”

Dated the _____ day }
of _____ 18 . } Collector of _____

(G. Rs. Nos. 6500, dated 13th September 1890, and 8443, dated 26th November 1890.)

PART III.—COMMUTATION OF WATANS.

1. Government are not at present disposed to enforce a non-service settlement against the wishes of the Watandárs, but in cases where they are not willing to accept it, service up to the full value of the watan should be exacted.

There is no legal difficulty in enforcing a settlement in respect to cash emoluments, and this can be done hereafter, if advisable, in cases where the cash allowances are sufficient to cover the amount representing the value of the service dispensed with. (G. R. No. 3045, dated 16th June 1874.)* ✓

2. Ten years should be fixed as the period of settlements of haks to be made by pancháits under Section 18 of the Watan Act. (G. R. No. 34, dated 4th January 1876.)

3. The wording of Section 17† of the Watan Act excludes from its operation a case in which no payment in cash or kind is made and the remuneration consists of land alone. (G. R. No. 8190, dated 9th October 1885.)

* In the Ratnágiri District the Collector was directed to enforce the non-service settlement on the basis of commutation of 5½ annas in the rupee. (G. R. No. 6260, dated 16th September 1887.) ✓

† As regards the construction of Section 17, *vide* judgment of the Bombay High Court in Appeal No. 62 of 1893 printed as a foot-note to paragraph 8 of Part II of the Village Officers and Servants Section of the Compilation.

WATANS.]

[PART IV.]

PART IV.—CREATION AND LAPSE OF WATANS.

1. It is inexpedient to create new watans in the Konkan, and the person who is appointed Patel should receive a cash remuneration. (G. R. No. 3270, dated 29th June 1878.)

2. The villages of the Panch Maháls should be grouped in two classes, viz., Class A, comprising the more settled areas and the larger villages, and Class B, comprising villages without organized communities and inhabited chiefly by Bhils or Kolis. In the villages under Class A, new watans should be created under Part IV of the Watan Act III of 1874, but in the smaller Bhil and Koli villages in which no watan rights exist, none should be created at present. (G. R. No. 2139, dated 22nd April 1879.)

3. Government do not think it desirable to acknowledge services of their officers by the grant of watans. (G. R. No. 5747, dated 3rd October 1881.)

4. Government would be prepared to grant service lands to Patels, the former Watandárs of deserted villages, in the Khándesh District on their repopulating them and bringing a certain area of land under cultivation, should the Commissioner see fit to make proposals to that effect. (G. R. No. 3294, dated 26th May 1887.)

5. Copies of the following letter from the Secretary to the Government of India, Department of Revenue and Agriculture, No. 215—348, dated 18th January 1895, were forwarded to the Commissioners and Collectors for information with an intimation that the order* of the Government of India, No. 56, dated 26th April 1841, quoted at page 122 of Nairne's Revenue Handbook, so far as it relates to hereditary village accountants, should be considered as cancelled :—

“I am directed to acknowledge the receipt of your letter No. 9948, dated 5th December 1894, enclosing correspondence on the subject of the recent grant to Ráo Sáheb Shesho Krishna, Mámlatdár, of certain kulkarni watans in the Bijápur District in which the hereditary rights, which had expired, were revived in his favour, and to forward for the information of the Governor in Council a copy of a letter, No. 2007, dated 22nd October 1894, recently addressed to the Government of Madras, which indicates the views of the Government of India regarding the maintenance of hereditary village accountants.

“2. As His Excellency in Council is aware, one of the main objections urged by the Government of Bombay against the em-

Paragraph 8 of letter No. 7070, dated 15th October 1891.

* Lapsed hereditary office may, with the sanction of Government, be bestowed on properly qualified public servants as rewards for meritorious service. (G. of I. No. 56, dated April 26, 1841.)

PART IV.]

[WATANS.

Summary accompanying Bombay Government letter No. 5538, dated 7th July 1892.

employment of their village accountants on survey and settlement work was the practical impossibility of training the hereditary kulkarnis. The Government of India, as at present advised, do not suggest any interference with existing hereditary rights; but they are strongly of opinion that such rights when once extinct should not ordinarily be revived.

“3. Circumstances have altered greatly since the order of the Government of India was passed upon which the rule* contained in Section 22 of Chapter VI of Mr. Nairne's Handbook for Revenue Officers is based, and I am to request that, if His Excellency in Council sees no objection, the rule so far as it relates to hereditary village accountants may now be formally abolished.”

(G. R. No. 5053, dated 4th July 1895.)

* Lapsed hereditary office may, with the sanction of Government, be bestowed on properly qualified public servants as rewards for meritorious service. (G. of I. No. 56, dated April 26, 1841.)

PART V.—REMUNERATION OF OFFICIATORS.

1. In cases where the proprietor (*i.e.*, the person in possession) of service land is either unwilling to, or incapacitated from, performing village service, the Collector may require him to pay such rent over and above the fixed survey assessment as will suffice for the wages of a substitute. If the proprietor is unwilling to meet this demand, then the land should, as a general rule, be resumed.

The excess beyond the official emolument, levied under the above orders, which, in fact is nothing more than the legitimate rent, should not be credited to Government, but paid to the person who has a right to the occupancy of the service land, but is kept out of it by another who has possession.

(G. Rs. Nos. 2241, dated 20th June 1866, No. 2425, dated 4th July 1866, and No. 5976, dated 4th December 1872.)

2. It may be assumed that all land held by the patelki family in the Panch Maháls was held for service, or in other words, the Patel took it by virtue of his office.

While the Panch Maháls were under the Scindia, the revenue was farmed, a lump sum being paid by each village, and neither the Vahivatdár nor the Gwálior Darbár cared how much or how little land the Patels had in their own possession, so long as a round sum was paid by the village.

When the district came into the British possession, village accounts were for the first time prepared, and the Taláti entered the land in the possession of the Patels according to their fancy, some entering the whole of the land enjoyed by the Patel bháyád as service, and some only the portion enjoyed by the officiators as service, and that held by the non-officiators as *ját inám* or *jivái*. In fact, there was no uniformity, and it would, therefore, be impossible to draw any distinction between the different descriptions of land according to Government books; for, as stated above, it was *all* enjoyed for what is now termed service.

This, added to the confusion in which the subject appears to have got involved, led Government to think that it would not be inequitable to order *de novo* that the whole of the land found in the possession of the Patel family is to be treated as service and made available for the remuneration of the Patels.

The above settlement applies to the whole of the Panch Maháls except the Mevási villages.

(G. R. No. 239, dated 16th January 1878.)*

The lands of the Patels in the Panch Maháls are very extensive, and not being "watans" can be

*A scheme for the remuneration of Patels and village police in the Kálol Táluka of the Panch Maháls was sanctioned by Government Resolution No. 4835, dated 11th September 1879.

dealt with as Government please. The following proposal made by the Extra First Assistant Collector, Panch Maháls, should be carried out, care being taken in so doing to bear in mind the provisos that (1) due margin should be left to provide for remuneration in the case of increased cultivation, and (2) the chango should be made to press less hardly on the Patels and their families. This latter point may require that the balance of land left after the payment to the Patels and police should not be fully assessed.

“Some of the excess may often be made available for the remuneration of village police without taking assessment from the holders who would either themselves take the place of watchmen or arrange with men of the village for the performance of the duty. As the revenue of the district increases, so the remuneration of the revenue Patel according to scale would be greater. It would be well, therefore, to leave a margin on the statement according to the present figures.

“A quantity of land equal to the officiating Patel's free holding might be set apart for the remuneration of the village police and the residue be fully assessed. * * * The establishment of subordinate police servants in the villages should be made at the same time with the settlement of the Patels' holdings, so that the additional charges to be met may be known at the same time with the new recoveries on account of excess service holdings.”

(G. R. No. 3241, dated 27th June 1878.) ✓

3. Bháyáds' lands in the Panch Maháls District should be recognised as jít ináms and excluded from consideration in the allotment of lands as remuneration for service. (G. R. No. 7298, dated 2nd December 1881.)

4. The following opinion (No. 383, dated 29th March 1882) was recorded by the Remembrancer of Legal Affairs on the subject of the application of the Watan Act to a patelki office which was not held in a particular family and the remuneration of which was paid by the Inámdár:—

“The patelki office of the village of Dyamapur in the Dhárwár District cannot, in my opinion, be treated as a stipendiary appointment under the provisions of Section 16 of the Land Revenue Code, the second portion of which section expressly saves the rights of Inámdárs and others in respect of the appointment of Patels. Yet the office has been in existence ever since the introduction of British rule, and the Inámdárs have always paid the remuneration of the office. In cases where the office is held by a particular family such payments are considered watan property attaching to the office. But in cases where the office is not held by any particular family, it does not follow that the office is not what is known as ‘watan,’ and that the payment of the emoluments is merely a stipend, or that the Inámdár may abolish the office and withhold the remuneration whenever he chooses.

“2. It is true that the word ‘watan’ is defined in the Act to include watan property, the hereditary office, and the rights and privileges attached thereto, and that the Act only deals with offices which are held by Watandárs, that is, persons who have a hereditary interest in a watan; but there are undoubtedly watans the right to hold which does not exist in any particular family, and Government has power to deal with such under the provisions of Section 22 of the Act by appointing a particular person to perform the duties of the

office and enjoy the emoluments in consideration of such performance, or to assign the office and its emoluments as hereditary property to a particular family as Government may see fit. When there is a watan, but no Watandár, Government can appoint an officiator.

"3. When a patelki office has existed from a time anterior to ur orule and the officiator for the time being has all along been regularly paid, it may be difficult to ascertain the exact origin of the office; but to convert what is presumably a watan in its inception into a stipendiary appointment continuable only at the Inámdár's pleasure would be a retrograde course.

"4. Section 16 of the Land Revenue Code applies to Government villages and to those alienated villages where there is no such thing as a patelki office or any sort of remuneration for any such office, and where it may be considered desirable by Government that a stipendiary Patel should be appointed.

"5. In the present instance there is an office, presumably watan in its nature and origin with a payment attached to it, and the right of Government to appoint an officiator. All that is required is the power to make the Inámdárs continue the payments, and this power appears to me to be sufficiently afforded by the Bombay Hereditary Offices Act."

(G. R. No. 2552, dated 19th April 1882.)

5. The following opinion of the Remembrancer of Legal Affairs, No. 629, dated 14th May 1887, dealing with the question whether watan land for which judi has been imposed according to the rules for the payment of remuneration to officiating Watandárs in the case of patelki and kulkarni watans should be transferred to the officiating Watandárs, was communicated to all Collectors and Commissioners:—

"Subject to the provisions of the Watan Act and local custom the right of succession to watan property is governed by the ordinary law of inheritance.

"In the present case, Lala Chandkhan held the field in dispute from 1858-59 to 1878-79.

After his death his son Guljar took possession and held it till 1882. The Assistant Collector then ejected him in favour of Edu, who had been appointed officiating Patel, on the ground that it should be presumed that the land had been assigned as remuneration for the officiator. The Collector reversed this order and restored Guljar.

"The Collector's order appears to be correct. The Assistant Collector's opinion that it should be presumed that the right to the possession of land had been assigned as official remuneration is, I think, erroneous. The presumption is the other way. The ordinary law of inheritance from the last possessor prevails until the circumstances which require some other order of descent are proved. There is really no proof that this land was assigned as official remuneration. Such assignment could only be the result of a specific order or of general custom. As it is not suggested that the Government records show any trace of an official order about this land, it may safely be assumed that none has ever been passed. And as regards custom, there is no proof that by it the land has been reserved for the officiator. It is true that Lala and Guljar held from 1858 to 1882 and that at the same time they successively officiated as Patels, but these facts are quite insufficient to establish the custom. To do so it would be necessary to show that for a very long series of years the possession of this land always went with the office irrespective of the ordinary law of descent, and that the existence of the custom was generally admitted by the family.

PART V.]

[WATANS.

“I do not think the imposition of extra judi on the land to make up the scale remuneration to the officiator and the grant to the latter of a stipend in cash from the treasury affect in any way the right to possession of the land. Though the extra judi is indirectly paid to the officiator, the very most that can be said is that its imposition may amount to an assignment of part of the profits as official remuneration; but it cannot, in my opinion, be held to be an assignment of the land itself.”

(G. Rs. No. 3774, dated 22nd June 1887, No. 6922, dated 14th September 1889, and No. 1284, dated 16th February 1897.)

6. It is no part of the duty of an officer settling a watan register to fix the emoluments of the officiators in the watan. Where no land is assigned for the remuneration of the officiators and the representative Watandárs serve contemporaneously and perform similar duties, it is equitable to divide the cash allowance assigned to the watan equally between the officiators. (G. R. No. 8141, dated 26th October 1889.)

PART VI.—REPRESENTATIVE WATANDA'RS.

1. In cases of dispute as to the right to serve, the general rule should be that if the actual performance of service is not disputed, it should rest with the opposite party to prove that such service was on the part of others and not of original right, if they allege such to be the case; if they fail to prove this, the claimant should have the benefit of the doubt. (G. R. No. 4797, dated 23rd August 1875.)

2. Section 26 of Bombay Act III of 1874 enacts that in determining what heads of families shall be recognised as representative Watandárs, and what is the custom of the watan as to service, the Collector shall consider the practice heretofore observed from the earliest period for which there are records or other evidence available. A final decree of a competent Court determining the rights of the Watandárs *inter se*, and the custom of their watan as to service, would appear to be evidence of the nature contemplated by this section, and it ought to be regarded by the Collector, as it would be by any other authority, as *conclusive* on the points with which it deals.

The rules laid down in Part VI for determining who shall be recognised as representative Watandárs, are however to some extent new, and should any of them operate to limit or vary a right of which the existence has been declared by a Court's decree upon different grounds, the Collector will be bound to enforce the new law, and to treat the Court's judgment as conclusive only with respect to such facts as are material to a correct determination under the Act of the right to be recognised as a "Representative Watandár."

(L. R. No. 178, dated 8th March 1875; *vide* G. R. No. 1711, dated 17th *idem*.)

3. Wherever a Court of competent jurisdiction has investigated and adjudicated upon the rights of the members of a Watandár family *inter se*, or the custom of a watan as to service, the Collector should treat the judgment of the Court as evidence under Section 26 of Bombay Act III of 1874, and not go behind it, unless he be satisfied that all the parties interested were not before the Court, or that there was, from any other cause, a miscarriage of justice. In any case, the Collector should treat the judgment of the Court as *prima facie* evidence, and abide by it until it is satisfactorily impeached. Of course, if the judgment of the Court is at variance in any respect with the rules laid down in Part VI of the Act as to who are to be recognised as representative Watandárs, the Collector must follow the directions of the Act, and adopt the judgment of the Court only so far as it establishes facts material to enable him to come to a determination.

(Adv. Gen. No. 14, dated 26th February 1876 *vide* G. R. No. 1711, dated 17th March 1876.)

4. For the purposes of Act III of 1874, in all

Some generations back a man had two sons, on the second of whom, for some reason or other, the service watan devolved. On his death his son succeeded and so on in succession through each generation. The oldest son of the original head of the family and his descendants never had any connection with the watan.

such cases as that noted in the margin the existing head of the family of the second son should be registered as the representative Watan-dár under Section 27 and also entered in

column 20 of the watan register.

It is not intended, however, that proof of appointment under Act XI of 1843 is necessary to give a Watan-dár a claim to officiate. What is meant is that when, for some reason or other, the elder branch of a family had *never* had any connection with the watan, the existing head of the family of the second son who had been connected with the watan should be registered as the representative.

(G. Rs. Nos. 2906, dated 15th May 1876, 3484 dated 14th June 1876, and 3809, dated 30th idem.)

5. In a watan in which there were two taksíms (A and B) it had been the custom for one member of each taksím to officiate contemporaneously. In one taksím (B) there was but one family and a member of it had always officiated for life, but in the other (A) there were three families a member of each of which had officiated in fixed successive periods. As the service of one member of each taksím was contemporaneous, the question was raised whether the Collector was bound under Clause 3, Section 38, of the Watan Act to hold that the rotation of each of the three 'representative Watan-dárs' in the latter taksím must in future be for life or whether he could fix the period of their rotation at his discretion. The point was also raised whether in the case of the latter taksím the heads of the three families had the right to come to an agreement amongst themselves as to the order of service or whether the privilege allowed by Section 31 was strictly confined to cases described in Section 29. On these points the following orders were passed by Government :—

Contemporaneous service means service so performed in the same taksím and the service in watan A has not been contemporaneous but successive, as only one man has officiated at a time. The watan settlement would be—

Watan B—One officiator permanently for life.

Watan A—One officiator in rotation out of three families for terms of not less than ten years in case of Patels or five in case of Kulkarnis, or for life, according to whether the case fell under Section 28 or Section 29 modified by agreement under Section 31.

(G. R. No. 3262, dated 2nd June 1876.)*

* The following opinion was recorded by the Legal Remembrancer in his report No. 438, dated 3rd May 1876, on the points disposed of by this Resolution :—

6. Under Section 26 of the Watan Act the Collector is bound to consider what has hitherto been the custom of a watan as to service, and if he is of opinion that one house has hitherto served oftener or for longer periods than another, it will be his duty to confirm that custom when preparing a new register. Service according to proportionate value of shares of watans should, however, be avoided as much as possible, as tending to complicate the preparation of registers. (G. R. No. 4987, dated 31st August 1876.)

7. Watandár, as defined in Section 4 of the Watan Act, includes "a person adopted by the owner of a watan or part of a watan" subject to Sections 33—35. Section 33 appears to have been intended to enact that if any Watandár who is or was head of a family or chief representative of a branch of a Watandár family (or his widow) has adopted an heir before the Act came into force, notice of such adoption must be given to the Collector within 12 months of the Act coming into force, and if this is done, the adoption is conditionally recognised, and the right of the heir to be registered is admitted as if he had been a born son of his father

"5. * * The case put is one of a watan in which the service may be said to be partly contemporaneous and partly in successive periods. Section 28 applies where the service has been either contemporaneous or in successive periods, and Sections 29—31 apply only to cases in which the service has been in successive periods. The case stated in the question appears to be a *casus omissus*, and Section 28 therefore does not expressly provide for it. But there is no difficulty in seeing how it should be dealt with, and as Section 82 empowers Government 'to frame rules not inconsistent with the Act for the guidance of its officers in cases not expressly provided for,' I would suggest that the following rule be passed (namely):—

'When it has been the custom for a member of each of two or more taksims to serve contemporaneously, and in one or more of such taksims a member of each of several families has performed the duties in successive periods, the custom as to contemporaneous service shall, subject to the provisions of Section 43, be recognised, and the rights of the representative Watandár, or of the representative Watandárs of each taksim as to service shall be determined under the provisions of the Act as if each such taksim constituted a distinct watan.'

According to this rule, in the case stated in the question. Section 27 would apply to the sole representative Watandár in the former taksim, and according to clause 2, Section 31, the period of his service would be for life; and Sections 28—31 would apply to the three representative Watandárs in the latter taksim and their period of service would either be for life or in successive periods according to the section under which their case fell. The rule would thus be not only 'not inconsistent with the Act' but also, I think, entirely in accordance with its spirit and intention.

"6. * * * I am of opinion that Section 31 applies only to the cases described in Section 29 and that the three heads of families have only the right to determine the order of service amongst themselves if the practice of service in successive periods is not proved to the Collector's satisfaction to have existed at the date of the introduction of Act XI of 1843, or if the practice of selection by the Collector from several families prevails. If the case falls under Section 28 (and apparently also if it falls under Section 30, although it is not expressly so stated) the Collector is 'to decide the order in which the representative Watandárs shall officiate,' but I presume that there would be no objection to his consulting the wishes of the representative Watandárs themselves on this point, and in fact this would no doubt generally be the preferable course."

by adoption. (G. R. No. 5559, dated 24th September 1881.)

8. The old rules published at pages 32 to 35 of the Circular Orders of the Revenue Department regarding the grant of permission to non-representative Watandárs to adopt and the levy of nazarána in case of adoption should not be regarded as having the force of law. The policy of Government in the matter of adoptions by service Watandárs being decidedly more liberal than before under the provisions of the Watan Act, it would seem absurd to restrict in the case of non-representative Watandárs a privilege which has been conceded to representative Watandárs. If the restriction is unnecessary in the case of representative, it is more so in the case of non-representative Watandárs. (G. R. No. 1001, dated 2nd February 1885.)

9. The Watan Act does not recognise either seniority or juniority as conveying or denying a qualification to registration as a representative Watandár and nothing is more common as a custom than for the junior branch of a family to retain all the rights of service to the exclusion of the elder branch. (G. R. No. 4007, dated 21st June 1882.)

10. It does not appear, looking to Section 26 of the Hereditary Offices Act, that the Collector's inquiry into the past custom of a watan as to service should be restricted to the period of British rule. (L. R., No. 552, dated 18th April 1884; *vide* G. R. No. 3737, dated 9th May 1884.)

11. A sole surviving male representative of a Patel Watandár family gave notice under Section 34 of Bombay Act III, 1874, of adoption of an heir selected by his daughters-in-law. Strictly speaking, the terms of Section 34 of the Hereditary Offices Act are not applicable to the circumstances of the case, because the adoption has not been made by a registered representative Watandár or his widow. But the adoption has been made by the widows of the deceased son of the representative Watandár with his approval, and the adopted son becomes by virtue of the adoption the heir of the present representative Watandár in preference to the widows who have adopted him, and if he survives him, will be entitled, under Section 36, to be registered as representative Watandár in his stead. In these circumstances the Collector should register the name of the adoptive boy as heir, on the ground that the provisions of the Act have been as nearly complied with as was possible. Section 34 of the Act requires that the name of an adopted child should be registered by the Collector as heir merely. If notice of the adoption is made at a time when the adoptee is by virtue of his adoption at once entitled to be registered as representative Watandár, he should be so registered also; but otherwise his registration as representative Watandár will take place, under Section 36, only on the death of the existing representative Watandár. (L. R. No. 901, dated 4th July 1884; *vide* G. R. No. 5846, dated 19th idem.)

12. The words of Section 35 of the Hereditary Offices Act clearly prohibit the Collector from recognising any adoption of which notice has not been given as provided in Section 33 or 34, unless upon production of a certificate of heirship or of a decree of a competent Court establishing the validity of such adoption. Where there are or are likely to be disputes amongst the Watandárs themselves, either as to the fact or as to the validity of an alleged adoption, this provision should be strictly enforced. But if the question affects nobody but the alleged adoptee and the Government, it is competent to Government, if they think fit, to dispense with the necessity for a strict compliance with the law, and when the adoption was made with the Collector's sanction and notice of it was not given under Section 33 through oversight merely, there would be good reason for not insisting upon the observance of the letter of the law. On the other hand, if there is no dispute amongst the Watandárs as to the adoptee's claim, he will have no difficulty in obtaining a certificate of heirship in the District Court. Some trouble and some expense are all that it will involve. (L. R., No. 933, dated 12th July 1884; *vide* G. R. No. 6102, dated 30th idem.)

13. It has been held that in Bengal a Hindu lad who has attained the years of discretion may adopt or give authority to adopt, and that a boy of 15 has attained the age of discretion. (Section 15, W. R. 548, and I. L. R., 1 Cal., 289.)

The question is considered in West and Bühler's Hindu Law, pages 905 (*d*) and 947-8, with the result of showing that no precise time is fixed by the shástras when a male may adopt and that a minor is not generally incompetent to adopt.

When a widow adopts with the consent of her husband, the material point is *not* what is her age at the time she adopts, but whether her husband was of sufficient age to be competent to authorize her to adopt. Consequently it is stated that a "widow, who is duly authorized by her husband, may adopt while she is a minor, because the act is her husband's and she is only the instrument," (Mayne's Hindu Law, 4th Edition, paragraph 105.)

But in Western India no consent on the part of the husband is required for the validity of an adoption by a widow; so that the age of the deceased husband is in this Presidency immaterial. Steele in his Law and Customs of Hindu Castes (page 48) says, on the authority of Bhalchandra Shástri, that "a widow cannot adopt while under puberty," but there is no decision to this effect, and the law as to the age at which a Hindu widow may adopt must be regarded as being unsettled.

There is, however, no ground for holding that a widow of the age of 15 or 16 is incompetent to adopt, and for the purposes of Section 34 of the Hereditary Offices Act the Collector should recog-

nise such an adoption, if there is no other objection to his doing so. (L. R. No. 1988, dated 7th December 1891; *vide* G. R. No. 8851, dated 22nd idem.)

14. The following opinion of the Remembrancer of Legal Affairs, No. 8, dated 3rd January 1885, was circulated to Collectors and Commissioners with the remark, as regards paragraph 3 of it, that the Governor in Council doubts the necessity for any formal rules, that cases of the nature in question are very rare, and a Collector may be trusted to exercise his own discretion in dealing with them, proceeding in the manner mentioned in paragraph 4, and that if any person whose claim is rejected is dissatisfied, he will naturally appeal to the Commissioner and to Government, and the propriety of the Collector's decision can then be considered:—

“The provisions of Section 36 of the Hereditary Offices Act prescribe the course which is to be observed by the Collector ordinarily, *i.e.* when there are heirs of a deceased representative Watandár, and the only question is which of them is entitled to be recognised as representative Watandár in the place of the deceased. For the uncommon case of there being no person in whom the right of inheritance appears to the Collector to vest, the section makes no provision; but in such a case the Collector, as the representative of Government, is clearly entitled to refuse to recognise any claim which he deems to be unfounded and to treat the watan or the share of the deceased representative Watandár as lapsed.

“2. Section 22^a of the Act shows that it was contemplated by the Legislature that watans or parts of watans will occasionally lapse to Government, and it cannot have been intended that under Section 36 the Collector should be compelled to recognise the claim of a person to succeed as heir merely because he produces a certificate of heirship notwithstanding that the Collector may have good reason for questioning his title. A certificate of heirship is granted under Regulation VIII of 1827 upon a very summary inquiry and frequently *ex parte*. The Civil Courts themselves do not regard the orders passed in such inquiries as final; the person to whom a certificate is granted is merely held to be *prima facie* heir.

“3. In every case, therefore in which the Collector considers that there is no person entitled to succeed to a watan or share of a watan, he is justified, I think, in declaring such watan or share of a watan lapsed. This declaration may be made by him as soon as his inquiries satisfy him on the point, but whether he should arrive at a conclusion and declare a lapse of his own authority or after reference to the Commissioner or to Government is an administrative detail as to which it is open to Government to prescribe such rules as they think fit.

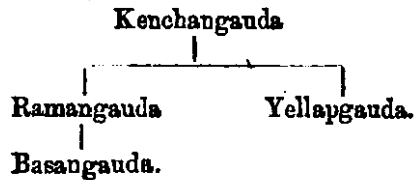
“4. The declaration of a lapse and the appropriation of the watan or portion of a watan to which such declaration applies as the property of Government, will involve Government in liability to a civil suit at the instance of any person who deems himself entitled to succeed to the property as heir of the deceased, and there is no bar to such a suit except the twelve years' limitation rule. If therefore a person comes forward within the above period and lays claim to the property, his claim ought not to be set aside because he did not appear sooner or because the watan or portion of a watan has already been treated as a lapse, but his claim ought to be enquired into as that of a person who may hereafter sue Government in the Civil Courts, and if he has obtained a certificate of heirship that fact should be regarded as indicating that he has some evidence in support of his claim. Whether any such claim should be finally resisted or admitted depends, of course, upon the merits of each case. There is nothing

in the Hereditary Officers Act that prevents its being admitted and the claimant's name being registered under Section 36 at any time."

(G. R. No. 531, dated 19th January 1885.) ✓

15. The following opinion of the Remembrancer of Legal Affairs (No. 20, dated 5th January 1885) was communicated to the Divisional Commissioners:—

"In this case the parties are related as follows:—



Ramangauda is living, and as he is the eldest son of the deceased Kenchangauda there is no question that, under ordinary circumstances, he should be recognised as the representative Watandár and that he would be succeeded, on his death, by his son Basangauda.

"2. But it seems that Yellapgauda, the second son of Kenchangauda, is a man of superior intelligence, and that Ramangauda, who is rather the reverse, consented twenty years ago to the *kháta* being entered in his name and has never since taken any personal part or interest in the watan affairs.

"3. In 1870, a watan register was prepared under the departmental orders of Government by the First Assistant Collector and the right of service was entered in Yellapgauda's sole name. In 1875, this same entry was confirmed under the Hereditary Offices Act. Now (June 1884) for the first time Ramangauda's son, Basangauda, has applied that either his father or he may be declared representative Watandár in preference to Yellapgauda.

"4. I do not think that Government should as a rule revise orders under Section 79 of the Hereditary Offices Act which have been so long in force as has the one here in question. Basangauda's age is not stated in the proceedings, but if he has only recently attained his majority, there is a good reason for the delay which has occurred, and on the other hand it would have been unsafe for him to wait till his father's or Yellapgauda's death before making any representation to Government for fear that his silence might be construed into tacit acquiescence.

"5. The entry of the watan in Yellapgauda's name twenty years ago was made with Ramangauda's consent. He and Yellapgauda and a third brother came to this arrangement when they were still living as unseparated brethren, by mutual consent. This was a family arrangement with which Government will probably not think it desirable that there should be any interference, especially as Yellapgauda was evidently the most fit person to hold office; and there is here an additional reason for Government declining to deal with the case under Section 79 of the Act.

"6. Moreover, it is Ramangauda and not his son who is entitled under the Act to be representative Watandár. So long, therefore, as Ramangauda is alive, Basangauda has no claim to have his name entered in the record. For all these reasons I would recommend that Basangauda's application be refused.

"7. But a father cannot by Hindu law will away his son's interest in the ancestral estate. On the death of Ramangauda, therefore, Basangauda will have a legitimate claim to the entry of his name as representative Watandár, inasmuch as Yellapgauda's name stands only through the acquiescence of Ramangauda, and Yellapgauda's title will, therefore, cease on Ramangauda's death. Or if Yellapgauda should prede-

cease Ramangauda, and the latter is then still unwilling that the entry should be in his name, Basangauda and not any son or heir of Yellapgauda will be entitled to be representative Watandár.

"8. I have written thus far under the supposition that the watan is still the common property of Ramangauda and Yellapgauda. The Collector states, however, that the two brothers separated in 1877. If this means that there was a partition of the family property and if in such partition the watan fell entirely and exclusively to Yellapgauda, then, of course, neither Ramangauda nor his son Basangauda has any longer any interest in the watan, which must henceforward be regarded by the Collector as vesting in Yellapgauda's branch of the family only. But if the separation was merely a separation in house and food, without any formal partition, what I have above written holds good."

(G. R. No. 692, dated 23rd January 1885). ✓

16. The register cannot be said to be *completed* until appeals from the decision of the officer who passed it have been heard.

As the decision of the original Court is not final until the period of appeal is over and as the appellate authority can confirm, modify or set aside the decision of the Original Court, it is perfectly competent to an Appellate Court to enter the names of representative Watandárs by the mutual agreement of the sharers under Section 31 of the Watan Act.

(G. Rs. Nos. 7744, dated 25th September 1885, and 8107, dated 5th December 1888.)

17. Watandárs of watans already settled should not be called upon to lodge genealogical trees in Government records. (G. R. No. 8690, dated 28th December 1888.)

18. It is an error to suppose that sanction is necessary to an adoption. It is sufficient to refer to Indian Law Reports, 1 Bombay, 607. Section 35 of the Bombay Hereditary Offices Act only requires the Collector to withhold his recognition of an adoption unsupported by decree or certificate if notice thereof has not been promptly given, *i. e.*, within twelve months if it took place before the Act, and within three months if after. If notice be given in time, the Collector is bound to register it. (L. R. No. 354, dated 3rd April 1889; *vide* G. R. No. 3090, dated 27th idem.)

19. The words "several families" as used in Section 28 do not necessarily mean families descended from *different* ancestors. (G. R. No. 5399, dated 27th July 1889.)

20. The following opinion of the Honourable the Advocate General, No. 74, dated 17th September 1895, in which Government concurred, was communicated to the Commissioners of Divisions for information:—

"With reference to memorandum No. 6787 of the Revenue Department, dated 4th September 1895, requesting my opinion whether having regard to the provisions, scope and intention of Bombay Act III of 1874, a deity or idol may legally be registered as a representative Watandár, I am of opinion as follows.

"I think that it is clear from the whole of the Act that a representative Watandár must be a person capable (apart from cases of unfitness such as are mentioned in Sections 45 and 46) of performing the duties of the office appertaining to the watan. Special provision is made for the performance of those duties in the case of a representative Watandár who is a minor (Section 37) or who is a female (Section 51). In the absence of any provision for the case of a deity or idol, I think that the legal fiction by which an idol is in a limited sense regarded as a kind of human entity cannot avail to contravene the plain intention of the Act as above stated. In as much therefore as a deity or idol is, even if regarded as a personality, incapable of performing any duties, it is not in my opinion legal to register such a personality as a representative Watandár."

(G. R., No. 7693, dated 5th October 1893.)

21. The last sentence of Section 36 relates only to the proceedings of registering the name of the heir; and if a certificate of heirship or a decree is then produced, the Collector must act on it; but the Collector is not bound to alter the register years after it has been framed, because a certificate of heirship or decree affecting private property is produced, and has not power to alter it at all on that account, although, if a Court distinctly decreed that a person not registered was heir to watan rights, Government would no doubt be moved to direct a new inquiry after calling for the papers.

Whenever a decision under Section 36 of the Act appears, owing to the subsequent production of a certificate of heirship or for any other cause, to be erroneous, Government will be prepared, on due cause shown, to take action under Section 79 of the Act.

(G. R. No. 7063, dated 4th November 1898.)

22. The following opinion of the Remembrancer of Legal Affairs, No. 1058, dated 31st August 1895, was communicated to the Commissioners of Divisions for information:—

"The family owning the watan in question was formerly a joint family consisting of three brothers, Ganu, Dongar and Rágho. Ganu's name was entered as that of the representative Watandár of the watan. When he died, Dongar's name was entered. When Dongar died, Rágho applied to have his name entered, but died before orders were passed. The Assistant Collector eventually ordered that the name of Bhima, widow of the second brother, Dongar, should be entered. Lakshmibái, widow of the eldest brother, Ganu, appealed to the Collector. The widow of the third brother, Rágho, made no claim. The Collector reversed the Assistant Collector's decision, and ordered that the name of Lakshmibái, widow of the eldest brother, Ganu, should be entered. Bhima now in turn appeals to the Commissioner. The Commissioner on the authority of Government Resolution in the Revenue Department, No. 7122 of 5th September 1885— which rules that a decision in appeal should proceed only on the points raised in the appeal—refrains from dealing with the appeal, and refers the matter to Government. He is of opinion that the name of the widow of the third brother, Rágho, should be entered. He points out that Rágho's name should have been entered when Dongar died. The fact of Rágho's having died before the enquiry with a view to the entry of a new name was complete, does not take away his right. His widow is his nearest heir. Her name should therefore be entered. Her failure to apply does not affect

the question, for the terms of Section 36 of the Act are imperative.

"I think this view is correct. The law governing the rights of the individuals concerned appears to be this. The widow of the last deceased brother takes the estate. The widows of the other brothers are entitled to maintenance only (West and Bühler, pages 345-6 and 400-1). Rágho's widow is, in the language of Section 36, the nearest heir to the family property, the watan included, and her name must be entered as sole representative Watandár. It makes no difference that she has not put forward her claim. The law does not require an heir to do so. By Section 36 of the Act the village officers are to report the death of a representative Watandár, and the Collector is bound then, if satisfied that the report of the death is true, to enter the name of the person appearing to be the deceased's nearest heir. Nor does the fact that Rágho's application was not disposed of before his death, affect the question. His name should have been entered whether he applied or not. But taking matters as they stand, Rágho's widow is nearest heir to Dongar as sole heir to her deceased husband who was heir to Dongar.

"The procedure contemplated by Section 36 appears to be very summary. Enquiry beyond the contents of the village officer's report is not obligatory. But any one aggrieved by an order under the section has his remedy by application to the Civil Court for a certificate, or a suit in the same for declaration of heirship."

(G. R. No. 7371, dated 25th September 1895.) ✓

23. The following opinion (No. 295, dated 26th February 1897) recorded by the Remembrancer of Legal Affairs on the question whether the female relations of a daughter should be postponed to her father's male relations in the order of the succession to the watan entered in her name before Act V of 1886 came into force, was communicated to the Divisional Commissioners and the Collectors in the Presidency proper :—

"The question proposed for opinion in Government memorandum No. 9073, Revenue Department, of 16th November last, arises under Section 2 of Act V of 1886, amending the Bombay Hereditary Offices Act III of 1874.

"One Vithalpant appears to have been the original Watandár. He died, leaving two sons Shidrapant and Devjipant, and hitherto the watan has been in the possession of the heirs of Shidrapant.

"Shidrapant's great-grandson died in 1874, leaving a widow named Umábái, who died, in 1881 and a daughter named Vithábái.

"The watan was registered in the name of Vithábái under Act III of 1874, and continued to be so till her death in 1893. Vithábái's only son Dhondbhat died in 1892 (a year before his mother), leaving behind him a widow named Lakshmibái.

"The Collector has registered the watan in the name of Lakshmibái, but her claim is contested by one Dattátraya, the great-grandson of Devjipant, the second son of the original Watandár, under Section 2 of Act V of 1886.

"There is no doubt that this Act applies to the case under discussion, as Vithábái died long after it came into operation. The question therefore proposed by the Commissioner is 'should Lakshmibái be postponed to a male member of Vithábái's father's family under the said section.'

"Vithábái obtained an absolute estate in the watan as inheriting the same from her father and under the law laid down in the Full Bench decision in *Bhágirthibái vs. Kárunjiráo* (L. L. R., 11 Bom., 285), the estate would have passed to her own heirs and not to those of the preceding owner if the gene-

ral Hindu law was to be applied. The same principle would have applied in the case of a watan devolving on the heirs of Vithábái, if the devolution had taken place before Act V of 1886 came into force. Lakshmibái would then have been the rightful heir to the watan.

“The operation of this Act, however, seems to postpone her claim to the devolution of the watan, and the statute creates a disability which did not formerly exist under the general Hindu law.

“Lakshmibái’s husband having predeceased Vithábái she does not inherit this watan in terms of the first part of the section as ‘the widow of the last male owner,’ but she comes under the second part and ‘claims through a female,’ *i.e.*, Vithábái. The section is imperative, that ‘every person claiming through a female shall be postponed in the order of succession to any watan to every male member of the family qualified to inherit such watan.’

“The words ‘claiming through’ have been interpreted by the Honourable the Advocate General in his No. 11 of 24th February 1888 (quoted in paragraph 1 of Government Resolution No. 2793 of 3rd May 1888) to apply not to immediate succession, such as that of a son to his mother, but only to mediate succession, such as that of a grandson to his maternal grandfather. Lakshmibái’s case falls under the latter clause and she must be held to be claiming through a female, *i.e.*, Vithábái.

“It then remains to ascertain whether the appellant Dattátraya comes within the requirements mentioned in the last paragraph of Section 2, *i.e.*, if he is a male member of the family qualified to inherit such watan.

“The word ‘family’ has been defined by Section 4 of Act III of 1874, and it ‘includes each of the branches of the family descended from an original Watandár.’ Looking to this definition Dattátraya is a male member of the family qualified to inherit such watan.

“Under these circumstances it is submitted that the answer to the Commissioner’s question should be in the affirmative, that Dattátraya has a prior claim, and Lakshmibái’s right will have to be postponed to his right.”

(G. R. No. 2770, dated 8th April 1897.)

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PART VII.—PERIODS OF SERVICE.

1. The words "if contemporaneous" in clause 3, Section 38 * of the Watan Act, 1874, refer to the future not to the past, *i.e.*, when two persons are to serve contemporaneously (there being no others) each is to be appointed for life, and in all cases where service is to be in successive periods or in other words by rotation the periods of service is left entirely to the discretion of the Collector. No other construction is permissible or ever possible. (L. R. No. 1374, dated 4th November 1879; *vide* G. R. No. 6078, dated 12th *idem*.)

2. From the terms of Section 41 of the Hereditary Offices Act it does not appear that the provision contained in Section 53 is applicable to cases dealt with under Section 40. (G. R. No. 1827, dated 26th February 1896.)

* Section 38 of Act III of 1874 has been since amended by Act V of 1886.

PART VIII.—OFFICIATING WATANDA'RS AND DEPUTIES.

1. It should be the general rule that Inámdárs have no right of nominating hereditary village officers. All Government Resolutions on this point issued prior to the passing of the Watan Act, 1874, must be considered cancelled where they conflict with the Act. (G. R. No. 4165, dated 23rd July 1875.)

2. Bombay Act III of 1874 is now the law of the land, and must be obeyed in inám as well as khálsa villages. Where Inámdárs have had the privilege of appointing, they should, when a nomination has to be made, be allowed to be present, and their wishes should, as far as the law allows, be treated with consideration. (G. R. No. 5522, dated 29th September 1875.)

Whenever an appointment of a village officer is made in an inám village, the Inámdár or his agent should be given notice and his objections, if any, to any person whom it is proposed to appoint should be fully considered before the appointment is made. The person to be appointed should be required to sign an undertaking to use all diligence to collect the dues of the Inámdár. (G. R. No. 5733, dated 17th August 1899.)

3. Local officers should reduce the number of officiators on every possible occasion where their services are not actually required. In most cases they will be able to arrange this, if they use tact, by carrying out the provisions of Section 31 of Act III of 1874, which can be applied, with the consent of the Watandárs, specially to such cases as those coming under Section 29 of the Act. The disposal of these cases is left to the local officers. (G. R. No. 6648, dated 27th November 1875.)

4. The repeal of Act XI of 1843 by Bombay Act III of 1874 has not the effect of cancelling from the date on which the latter Act came into operation all appointments lawfully made under the former Act, the periods of which had not yet expired. (L. R. No. 54, dated 17th January 1876; *vide* G. R. No. 515, dated 24th idem.)

5. The principle adopted by Mr. Vidal in the settlement of the Wái Kulkarni watan as shown in the following extract from the memorandum of the Revenue Commissioner, S. D., No. 897, dated 17th March 1876, should be applied in the settlement of other watans similarly situated:—

“In the Sátára Collectorate the Collector Mr. Arthur ordered on the authority marginally noted the entry in the register of the names of all sharers whose names appeared in the Government Records of 1853. The consequence of this has been, as shown in the present case, that 50 sharers and sub-sharers have been retained in the register.

G. R. No. 4465, dated 2nd August 1868, published at page 284 of the Revenue Circular Order Book of 1860.

"The undersigned fully concurs in the proposals of Mr. Vidal that heads of families which have enjoyed the right of service, should alone be entered in the register agreeably to the new Watan Act; and therefore recommends that the sanction of Government to the amendment of the register to this extent should be granted agreeably to Section 73, clause 2, of the Act.

"Sanction is also solicited to revise other registers of a similar nature on the same principle."

(G. R. No. 1957, dated 27th March 1876.)

6. Voluntary settlements under Section 31 of Act III of 1874 should be encouraged. The fact of a family never having done service before does not necessarily prevent its head being recognised under the Act as representative Watandár. (G. Rs. Nos. 2836, dated 11th May 1876, and 5855, dated 13th October 1876.)

A sole representative Watandár who is the only surviving Watandár of his own taksím, and who notwithstanding that there were several Watandárs living belonging to the other taksims of the watan, has always been allowed, before Act III of 1874 was passed, to appoint a stranger as his deputy, is now bound under Section 53 of the Act to appoint one of these latter Watandárs if there be one of them fit and willing to serve.

(L. R. No. 438, dated 3rd May 1876; *vide* G. R. No. 3043, dated 22nd idem.)

7. Section 43 of Act III of 1874 gives the Collector power to determine what number of officiators is required for the proper performance of the duties of an office, and to secure that performance to direct that it shall be provided for in one of several alternate ways laid down in that section, one of which is by nominating to serve in successive periods representative Watandárs who now or heretofore have served contemporaneously. This was especially meant to apply to cases in which (as in Khándesh) a number of men were serving at the time but inefficiently, and if the Assistant Collector is of opinion that one man is sufficient to do the duty of both Revenue and Police Patel in a village, it is quite competent for him to nominate one, and to change the practice from contemporaneous to successive service. (G. R. No. 3291, dated 23rd May 1877.)

8. It does not follow that because a man has never served that therefore he has not the right to serve. If, for instance, the custom of the watan has been for the Collector to select an officiator for service, and the Collector does not happen to have selected from certain taksíms, it would be very hard to rule that all who have not been selected should for ever be barred from the right to serve. (G. R. No. 474, dated 23rd January 1882.)

9. Vacancies in watans of which the new registers have not been prepared by the Assistant Collectors should be filled up by appointing the person whose turn appears on the old register provisionally that if the new registers should be prepared before

his term expires, and his claim to serve should be rejected, he is to vacate in favour of the Watandár to whom the Assistant Collector accords the right, unless he should appeal. Should the Assistant Collector when preparing the new register continue such Watandár in office, his appointment shall be made under Section 38 to commence from the date when he was provisionally appointed, provided that no such appointments shall be made until the period for making appeal shall have passed, or if appeal be made, till it be decided. If between the date of the Assistant Collector's decision and the decision on appeal the office shall become vacant it shall be filled up in accordance with the Assistant Collector's decision provisionally that it will be vacated if the decision on appeal is adverse to the holder. (G. R. No. 7412, dated 23rd October 1882.)

10. The fact that in cases in which watans are owned by Sardárs of so high a rank that they cannot be reasonably expected to serve in person they may be permitted to appoint deputies, does not exempt them from the liability to be called upon to serve in person, and a claim to appoint deputies without the liability to serve in person is untenable. (G. R. No. 8408, dated 30th November 1882.)

11. Section 50 of the Watan Act does not lay down that when appointing a deputy the Collector is not to consult the representative Watandár, if the latter has been rejected as being of known bad character or removed on account of grave misconduct. (G. R. No. 4784, dated 13th June 1884.)

12. Probationary appointments are not in accordance with Act III of 1874. The whole tenor of the Act is in the direction of making final appointments for fixed terms so as to prevent frequent changes and the trouble and local excitement they involve. (L. R. No. 614, dated 14th May 1885; *vide* G. R. No. 4433, dated 3rd June 1885.)

13. The record of past services in a watan showed that contemporaneous service by officiators from the two Watandár families had not been uniformly and consistently maintained, and having regard to the figures of population and jamábandi of the village, it appeared that one officiator could manage the village efficiently. Moreover, the representative Watandárs had agreed to serve in successive periods. In the circumstances the Collector requested the sanction of Government to an alteration to the following effect in the order of service fixed by the District Deputy Collector: "Service is to be alternate and not contemporaneous." Government ruled that as under Section 43 of Act III of 1874 the Collector has discretionary power to direct service in successive periods by representative Watandárs who have hitherto served or are serving contemporaneously, the proposed alteration might have been made by the Collector without the sanction of Government, and that in such cases the proceedings need not be submitted to Government for orders as required

by Government Resolution No. 7192, dated 5th September 1885. (G. R. No. 1951, dated 12th March 1886.)

14. The provision of Section 54 of Act III of 1874 does not appear to be opposed to permitting a Watandár, who has resigned office owing to inability to serve, to nominate a deputy for the remainder of his term of office, which is less than five years. Section 54 distinctly states that "when a Watandár entitled to officiate appoints a deputy it shall be for a term *not less* than five years," but this is not intended to mean that the *same man* must act as deputy for the whole term of five years, and that if he did not do so the right of appointing another deputy would lapse. It merely means that the appointment of a deputy should not be knowingly and intentionally made for less than five years. (G. R. No. 451, dated 20th January 1888.)

15. As Section 43 of Act III of 1874 empowers the Collector "to determine the number of officiators required for the proper performance of the duties of any office from time to time" and to arrange the order of service, the sanction of Government is not required in such cases. (G. R. No. 8104, dated 5th December 1888.)

16. Section 45 of Bombay Act III of 1874, as amended by Bombay Act V of 1886, specifies certain cases in which the Collector shall refuse to accept service from a representative Watandár or his nominee, but it is not clear that it necessarily follows from this that the Collector is bound to accept an officiator in all other cases not falling within the scope of that section. The latter cases seem to be governed by Sections 42 and 43 of the Act, under which the Collector is bound to accept service only when the Watandár or his nominee is a "fit and proper person." Under the provisions of these sections it is apparently within the discretion of a Collector to refuse to accept the service of a Watandár or his nominee who, although not absolutely disqualified under Section 45, is not considered to be fit and proper in other respects. (G. R. No. 3421, dated 12th May 1893.)

17. The following form of register should be adopted throughout the Presidency Proper :—

Register of Appointments of Patels and Kulkarnis made under Bombay Act III of 1874.

G. R. No. 5468, dated 29th July 1893.

Serial No.	Name of person appointed.	Whether representative Watandár or deputy.	If a deputy, whether appointed on behalf of Government or by the representative Watandár, and in the latter case the name of the representative Watandár.	PERIOD OF APPOINTMENT.		No. and date of report from Mámálatdár.	No. and date of order of the officer who made the appointment.	REMARKS. Fines, warnings, &c.
				From	To			
1	2	3	4	5	6	7	8	9

N.B.—Separate pages should be allotted to each village and to Patels and Kulkarnis separately (as is done in the case of Táluka Form No. 31).
One book may run for several years.

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18. If families descended from a common ancestor are admitted to independent right of registration they should be treated as distinct families for the purpose of Section 53 of Act III of 1874, as amended by Act V of 1886. (G. Rs. No. 802, dated 31st January 1895, and No. 1182, dated 7th February 1896.)

PART IX.—PENALTIES.

1. It is unnecessary, except in special cases, which the Commissioner may take into consideration, to forward English magisterial proceedings along with applications to Government to confirm the dismissal of hereditary officers.

All that appears to be necessary is that when under Act XI of 1843* a Revenue officer proposes to dismiss a hereditary district or village officer for incompetency or misconduct, he should hold some formal proceedings in which he should record in detail what such officer has done to deserve dismissal, and record what the officer has to say in his defence, and submit the same with his opinion, through the Commissioner, to Government. But in cases in which the hereditary officer has been convicted and punished by the Magistrate, or Session Judge, or their Assistants, it will be sufficient to record the facts on which the conviction rested and the result of any appeal, if made, or if none has been made, and to state that such is the case, without holding any formal proceedings.

* Repealed by
Bombay Act
III of 1874.

The desire of His Excellency in Council in issuing these instructions is to check the summary and informal manner in which cases of dismissals are sometimes disposed of and in which the defence or counter-statement the hereditary officer may have to oppose against the charges on which his dismissal is recommended, is frequently not placed before Government, unless he appeals.

(G. L. No. 3473, dated 2nd October 1860.)

2. The instructions contained in the following circular of the Commissioner of Police, No. 2668, dated 29th November 1858, must be held to be applicable to cases of nominations by Government—that is, to nominations whenever from disagreement among the shareholders, or from the refusal of the Watandár to appoint, the power of nomination becomes vested by law, in the Collector. In cases of selection by the shareholders or mere succession, the law must take its course:—

“I have the honour to inform you the Government direct that an immediate or near relative, such as father, son or brother, should not be appointed as the successor of a village police officer who has been dismissed on conviction by a competent Court of having committed crime in the conduct of the duties of his office.”

(G. L., J. D., No. 692, dated 28th February 1860; *vide* G. M. Nos. 861 and 862, dated 3rd March 1860, to the Revenue Commissioners, S. D. and N. D.)

3. As a general rule, a Collector possessing the confidence of the rayats of his district can, without troubling Government, induce Watandárs to perform those duties which are attached to their offices. Without instituting any criminal prosecutions the

Collector can deal with the case and fine a Watandár who refuses to comply with the order of a local officer to attend on a certain date for the purpose of signing the list of shareholders. These orders to fine are applicable only to officiating Watandárs. It is left to the Commissioners to institute such rules as are within their authority, and considered by them as appropriate, in order to secure proper attention on the part of the Watandárs. (G. R. Nos. 4193, dated 3rd December 1867, and 536, dated 8th February 1868.)

4. The power of dismissing a hereditary Patel must be regulated under Bombay Act III of 1874. The authority conferred by Section 57 of the Act can be delegated to an Assistant Collector. (G. R. No. 5716, dated 6th October 1876.)

5. The sanction of Government is necessary for the removal from office, under Section 58 of the Hereditary Offices Act, of a deputy who is not a Watandár of the same watan. The word used in Section 58 is "officiator," and that is defined in Section 4 of the Act to include a deputy. The first part of Section 61 enacts that as regards penalties the same rules shall apply to deputies as to representative Watandárs.

But when any such deputy has been removed under Section 58, the Collector is not entitled, under Section 50 of the Act, to refuse to allow the representative Watandár to appoint a successor and to appoint one himself. The latter part of Section 61, it is true, empowers Government to direct the forfeiture of a representative Watandár's life interest in any case in which a deputy appointed by him has been removed from office under Section 58. But unless Government take this extreme step, the representative Watandár's right of nomination remains. Section 50 only applies when a representative Watandár has himself been removed from office under Section 58, and the latter part of Section 59 also shows that it is only in case the officiator so removed "be a representative Watandár" that the appointment of a new deputy may be made by the Collector.

(L. R. No. 381, dated 9th April 1879; *vide* G. R. No. 2033, dated 17th idem.)

6. The misconduct in Sections 50 and 59 of the Watan Act is misconduct of the Watandár himself. (G. R. No. 2033, dated 17th April 1879.)

7. Section 58 of the Watan Act authorizes the removal from office of an *officiator* for grave misconduct. If the offending officiator is a deputy, the Watandár whom he represents may be declared ineligible for re-appointment. In a case in which a recommendation was made by a Collector that a *non-officiating* Patel, who had been convicted of theft, be declared incapable of serving as Patel and his deputy dismissed, it was held by Government that in that case it was not the deputy who had com-

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mitted any offence and that there was no section in the Act under which the recommendation could be sanctioned, nor was it necessary, for the Collector could always refuse to accept the services of the Watandár under Section 45. (G. R. No. 2370, dated 27th April 1881.)

8. The following opinion expressed by the Commissioner, C. D., which is supported by the wording of Section 59 of the Watan Act, was concurred in by Government:—

“A and B are two representative Watandárs—the custom of service, one officiator to serve by rotation.

“A is appointed to serve for 10 years; before his term is completed he is dismissed under Section 58 of the Watan Act.

“The question is whether A’s term of service has been virtually ended by his dismissal from service or whether the term still exists and it is left to Government to appoint a deputy.

“If his term has ended, then the term of service of B will commence, and in place of the Collector appointing a deputy in the place of A, B can either serve personally or appoint a deputy.

“I am of opinion that A by his dismissal has lost his turn of service and that the turn of B must be considered to have commenced.”

(G. R. No. 1692, dated 23rd March 1881.) ✓

9. Section 7, Act XI of 1843, empowered the Collector, with the approval and sanction of Government, to dismiss an officiating hereditary officer from his office, ‘in cases of misconduct or incompetency.’

Section 57 of the Hereditary Offices Act empowers the Collector to inflict minor punishments on an officiator for ordinary misconduct or neglect of duty, and Section 58 enables him, with the sanction of Government, to remove an officiator from office in ‘case of fraud * * * or other grave misconduct.’

Section 7 of Act XI of 1843, and Section 58 of the Bombay Hereditary Offices Act do not, therefore, apply to precisely similar cases; and it would be hard to visit upon a Watandár, who had been removed from office under the former section for ordinary misconduct or incompetency, the consequences which Section 59 of the Hereditary Offices Act reserves for those removed from office for grave misconduct. Moreover, there is nothing in the Hereditary Offices Act which indicates that the Legislature intended that removals from office under Act XI of 1843 should be equivalent to removals under the more restrictive provisions of the former Act.

(L. R. No. 1042, dated 2nd August 1883; *vide* G. R. No. 6518, dated 1st September 1883.)

10. Serious official misconduct on the part of hereditary village officers should always be dealt with by the Sessions Courts, in order to enable Gov-

ernment to confiscate the watans. (G. R.,* J. D., No. 3130, dated 29th May 1879, and G. R. No. 4767, dated 16th September 1879.)

11. The "official duties" mentioned in Section 60 of Act III of 1874 must appertain to the office held by the representative Watandár, or to which he appoints a deputy.

"Misconduct" in Section 57 and "grave misconduct" in Section 58 of the Act ought to be construed as referring to misconduct in the course of the official duties of the representative Watandár or to which he has appointed a deputy.

(Adv. Genl. No. 81, dated 16th August 1880; *vide* G. R. No. 4576, dated 1st September 1880.)

12. The power of forfeiture conferred upon Government by Section 60 of the Hereditary Offices Act extends only to the particular watan in discharging the duties of which an offence has been committed. (L. R. No. 1534, dated 15th November 1884; *vide* G. R. No. 9628, dated 5th December 1884.)

Forfeiture of interest in a watan clearly includes forfeiture of right of service.

(G. R. No. 9628, dated 5th December 1884.) ✓

13. The following rule has been framed under Section 82 of the Watan Act:—

Under Section 82 of the Bombay Hereditary Offices Act, 1874, the Governor in Council is pleased to direct that whenever any representative Watandár or any deputy or substitute appointed by him is convicted by a Criminal Court not inferior to a Court of Session of any offence in the discharge of his official duties or of any of the offences specified in the second schedule of the said Act or of any abatement of any such offence the Collector shall after the period of appeal has expired or after the decision of the appeal in case an appeal has been made, report the circumstances with his opinions thereon in order to enable Government to decide what action, if any, shall be taken under Section 60 of the said Act.

(G. R. No. 2793, dated 3rd May 1888.) ✓

14. The forfeiture of any watan property, held purely for future service, cannot be called in question in any Civil Court. The Watan Act, moreover, removes all possibility of doubt as to the liability of forfeiture on the conviction of a holder or his officiator for certain crimes.

Section 60 of the Watan Act aimed at the prevention of crimes by those in office, by declaring the responsibility, not of the individual nominating the deputy alone, but the joint responsibility of all who

* All criminal charges against officiating Watandárs or deputies, of offences in the discharge of their official duties should, if the evidence is such as is likely to secure a conviction, be committed to the Court of Session. (G. R., J. D., No. 3444, dated 16th June 1879.)

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might have interests in the watan. Joint responsibility of this nature was familiar in India long before the British rule (*vide* Mount Stuart Elphinstone's report on the Territories conquered from the Peshwa, 1821, pages 35 *et seqq.*), and the analogy it affords to the institution of frank pledge in England has been noted by J. Fitz-James Stephen and Sir F. Palgrave.

The object was not to hold the individual responsible for his nomination, but to restrain crime by a species of social pressure coming from all sides, and generating a peaceful and orderly system of self-discipline. The whole body of Watandárs are expected not only to select their deputies with caution, but also to exercise this restraining influence over them when appointed.

The section itself is very distinctly and emphatically worded, so as to show that not only the interest of the nominating Watandár, but the whole or *any* part of the watan, may be forfeited on the conviction of any deputy of any representative Watandár. Properly speaking, no Watandár can be regarded as having more than a life interest, and it could not therefore have been intended that the responsibility should be limited by the nature of the actual incumbent's estate.

As it appears that the object was to make the body of Watandárs vigilant in preventing official misconduct by their united influence, it does not seem that it was intended that any one of them could, by recording a protest against an appointment, save himself or his interests from the consequences of failure in this respect.

The amended Section 60 extends to any conviction in a Court not inferior to a Court of Session of any offence committed in the discharge of the official duties, and would certainly cover a case of torture of a prisoner or suspect, resulting fatally.

(L. R. No. 1384, dated 19th October 1889; *vide* G. R. No. 8301, dated 31st idem.)

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PART X.—MAHÁRS.

1. In the Panvel Táluka the Mahárs' allowances should be disbursed only where this class of servants are entertained, being held at the disposal of the Collector in those villages in which there are no Mahárs, for payment in the event of any being found willing to reside in the village and perform the duties. In those villages in which the Mahárs' duties are performed by Mudwis, the allowances should be paid to them. The allowances should be limited to one per cent. in villages the revenue of which exceeds Rs. 2,000. (G. R. No. 5568, dated 28th December 1861.)

The whole of the Panchotra allowance to the Mahárs in the Panvel Táluka should be paid to the Mahárs themselves and to no one else. (G. R. No. 4264, dated 22nd November 1862.)

2. Mahárki watans cannot be treated as separate taksims as regards service in the same manner as other watans, as the custom of the country has always been to call at any time, if the necessity arose, for the service of all Mahárs either severally or jointly. Yet for the purpose of making the settlement decision required by clause (c), Section 64 of Act III of 1874, the settling officer might, if he consider it expedient, consider into what families or branches the Mahár watan has been by long custom divided. (G. R. No. 1954, dated 12th March 1886.)

PART XI.—WATAN REGISTERS.

1. The work of preparing watan registers *de novo* should as far as possible be carried out on the spot.

These new registers must usually be made by the Assistant and Deputy Collectors in charge of *tálu*-kas in the manner prescribed by the Act. Regard should be paid to the convenience of the parties, and those cases in which vacancies are about to occur should be taken up first.

Care should be taken to avoid, as much as possible, obliging the parties to appear in person; and only in cases where there are doubtful or important points to be decided, their attendance should be insisted upon. (G. Rs. Nos. 5115, dated 8th September 1875, and 5861, dated 18th October 1875.)

2. The register itself shows that the same names as are entered in column 22 as representative *Watandárs* need not necessarily be entered in column 20 as head of families. When the original family or oldest branch has ceased to have any connection with the watan at all, the name of the head of it will not be entered at all in the watan register. When a connection still exists, the head of that family will appear in column 20, but whether or not also in column 22 must depend on the decision passed under Part VI of the Act. Cases under Section 56 are generally clear; the head of the original watan family is entered in column 20; the hereditary deputy in column 22. (G. R. No. 7127, dated 20th December 1875.)

3. It must be noted that the annas of *taksíms* do not necessarily add up so as to make exactly one rupee. The column of remarks in the register may always explain this in case of doubt. (G. R. No. 7127, dated 20th September 1875.)

4. Village servants such as *sutárs* (carpenters), *lohárs* (blacksmiths), &c., who, though of no such service to Government, are of use to the village communities, and therefore subjected to a quit-rent equal to one-fourth the value of their watans, are to be entered in the non-service registers. (G. R. No. 5238, dated 14th September 1875.)

5. It is impossible to have all the watan registers kept in English, but the entry of each watan in the watan register should be attested by the settling officer's signature. (G. R. No. 5932, dated 21st October 1875.)

6. Watan registers which profess to have been unanimously agreed to by the share-holders before the passing of Act III of 1874, but which have not been prepared and recorded in the hand-writing of a Collector or Assistant Collector, are illegal. (G. R. No. 1557, dated 13th March 1876.)

7. Watan registers must be re-written on a revision of the survey settlement. (G. R. No. 6930, dated 10th December 1875.)

PART XII.—MISCELLANEOUS.

1. Section 1 of Bombay Act III of 1874 declares that the Act extends to all villages alienated or otherwise, so far as its provisions shall not conflict with the terms on which any such alienated village may have been secured to the holder thereof.

When a village has become the private property of its holder, the papers and records prepared therein concern the holder alone and do not in any way affect the rights or interests of Government, and cannot be regarded as the property of Government. It would conflict with the terms on which the village is secured to the holder if he could be called on to produce accounts and papers relating to his private property; and it seems, therefore, that Section 70 of the Act does not extend to such villages.

So far as any of such records may affect questions of general administration unconnected with the private rights of the holder, such for instance as the Register of Births and Deaths, their production may be legally enforced under the section in question.

The object of the section appears from page 215 of Volume XII of the Proceedings of the Legislative Council, 1873. It was to prevent the fabrication of documents to support claims to hold land free. When a village has already been declared private property, it is clear that the necessity for this precaution no longer exists. (L. R. No. 841, dated 18th July 1889; *vide* G. R. No. 5383, dated 27th idem.)

PART XIII.—PROCEDURE AND APPEALS.

1. Government cannot support the action of the Collector in laying down that the sub-sharers in a watan have no right to petition in matters connected with the watan. (G. R. No. 4726, dated 2nd September 1874.)

2. The wording of Section 73, clause 2 of the Watan Act is strict and should be adhered to, so that those cases in which the reasons for the decision have not been written by the Assistant Collector, but the summary of them signed by him, must also be re-opened. (G. R. No. 1553, dated 13th March, 1876.)

3. All decisions must be written and signed in the handwriting of the officer making them. This is one of the most important provisions of the Watan Act, and the law should be strictly carried out. (G. R. No. 2963, dated 18th May 1876.) ✓

4. Government wholly disapprove of the issue of any instructions which would bind the Assistant Collectors to certain general conclusions as to the nature of all watans in any particular district, or to the assumption of certain facts. It is the duty of these officers to determine each case on its own merits. (G. R. No. 5855, dated 13th October 1876.) ✓

5. All orders under the Watan Act should be in English. (G. R. No. 3073, dated 11th June 1879.) ✓

6. Appeals should certainly be allowed from decisions passed before Act III of 1874 was introduced, provided no appeal has been made already. Many decisions have been passed without any proper record of proceedings having been made, and if appeals on such cases were not allowed, it is difficult to see how registers could be prepared *de novo*. (G. R. No. 2963, dated 18th May 1876.) ✓

7. The limitations and restrictions in respect to appeals do not apply to cases which have been dealt with prior to the passing of Act III of 1874. As a matter of fact, however, every case must be enquired into again for the purpose of framing the register under the Act, and any dispute that may have arisen can best be disposed of at the time of such enquiry. (G. R. No. 5915, dated 17th October 1876.)

8. In every case relating to the settlement of watans submitted to Government, the particular section of the Watan Act under which the decision has been arrived at should be quoted. (G. R. No. 6071, dated 25th October 1876.)

9. Decisions in cases in which proceedings under the Watan Act have been held before Assistant Collectors should invariably be communicated at the time to the parties concerned. (G. R. No. 499, dated 30th January 1878.)

10. A decision satisfies the requirements of Section 73, clause 2, of the Hereditary Offices Act:—

(1) If it has been recorded with the reasons therefor in the handwriting of a Collector, or his Assistant, or Deputy.

(2) If it has been passed subsequently to 1866.

(3) If it has been preceded by an investigation recorded in writing (not, it seems, necessarily by the same officer who passed the decision).

(4) If before it was passed a proper opportunity had been afforded for the hearing of claims and the production of evidence.

These are the only conditions imposed by the Act, and it is not imperative that the proceedings should be recorded in English, or even that the decision itself should be in English, so long as it is in the Collector's or Assistant's or Deputy's own handwriting. Where, therefore, there has been a decision which fulfils the above conditions, it is immaterial whether that decision was passed on appeal or as an original decision.

Although all decisions which do fulfil the conditions named above may be used in lieu of fresh investigation, clause 2, Section 73, expressly empowers the Governor in Council to "otherwise direct."

(L. R., No. 638, dated 30th July 1873; *vide* G. R. No. 3985, dated 7th August 1878.)

11. In cases in which petitions on watan matters are forwarded to Collectors for report it is the duty of the Collector to report on the different allegations of the petitioners instead of merely transmitting the papers and proceedings in the case, leaving Government to sift out the merits of the case from the papers. (Government Resolution No. 5878, dated 8th October 1881.) Commissioners have power to call for reports on watan cases decided by officers subordinate to them and direct further enquiries to be made or additional evidence to be taken whenever the circumstances of the case may show such a course desirable. (G. Rs. Nos. 5878, dated 8th October 1881, and 7816, dated 22nd October 1883.)

12. It is most necessary that the Commissioners should retain and when necessity arises make use of the powers of supervision which they at present possess. The Commissioners' supervision of the Collectors' proceedings in watan cases is a valuable safe-guard which cannot be dispensed with. (G. R. No. 5399, dated 27th July 1889.)

13. In consequence of the great inconvenience and confusion resulting not unfrequently from the want of uniformity on the part of the Collectors, their Assistants and Deputies in recording their proceedings under the Watan Act for the appointment of representative Watandárs and of the difficulty experienced by Government, when the cases come up for revision, in deciding what is exactly the custom of the watan as to service in each case, the subjoined form of record is sanctioned for general

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adoption. In recording proceedings under the Watan Act in future the Collectors, Assistants and Deputies should adhere, as much as possible, to this form to do the same.

In view of the possibility of these proceedings coming before Government on revision or appeal, they should be written in a neat and legible manner.

Record of Proceedings held before under
part 6 of the Watan Act, III of 1874, for the
village of Tdluka Zilla
Camp 1881.

The following persons are present :—

A list of the men who have served from the earliest period, with notes showing whether they were selected by the Collector or by the sharers under Act XI of 1843, Section 4, is appended.

Custom of the Watan.

Under this head state distinctly :—

- (1) Whether it is the custom "for a member of one family only to serve," Section 27, and if so whether he served by the selection of the Collector or the votes of the sharers in the watan or under Act XI of 1843, Section 4.
- (2) Whether "a member of each of several families" served "contemporaneously or for successive periods," Section 28, and if for "successive periods" whether this practice existed at the date of the introduction of Act XI of 1843. In both cases enquiry should be made and recorded if the several families served contemporaneously or in successive periods by the selection of the Collector or under Act XI of 1843.
- (3) Whether "the practice of selection by the Collector from several families prevails," Section 29, clause 1, and whether he selected one family to serve or several families to serve contemporaneously or for successive periods.

It is not sufficient to record that the custom is "rotation;" this word is not recognised by the Act and had better be abandoned. The Act only contemplates one or other of the customs above noted or perhaps a combination of two or more of them, but whatever remarks you may make on the subject of the custom, you must record a distinct finding under which section of the Act you consider the custom to exist and fix the period of service prescribed by Section 38.

It must be remembered that the mere appointment of one Patel to succeed another on vacancies by death or dismissal or termination of the period for which previous appointments have been made, does not *alone* constitute "service for successive periods," as contemplated in the Act. Service for successive periods can only exist *as a custom* when

it can be claimed *as a right*. When it exists at the discretion of the Collector, it comes more properly under clause 1 of Section 29 "selection by the Collector" or service in successive periods subsequent to 1843. Whether one or more persons served or whether they served for life or in successive periods they were invariably selected by the Collector, though he often fixed the order of service by selection, and therefore established a *quasi* service in successive periods. Having decided the custom of the watan, the next step is to decide who are the

Representative Watandárs.

(1) If you decide that the custom is for a member of one family only to serve, Section 27, then you "shall" register the "name of the head of that family only as representative Watandár."

(2) If you consider that the custom is for a member of several families to serve, Section 28, then you must "register the head of each of such families as representative Watandárs and fix the order in which they shall officiate."

(3) If you find, as you will in the great majority of cases, that service in successive periods has been introduced subsequent to 1843, or that "the practice of selection from several families prevails," then you must determine "if they are descended from a common ancestor, and if so, who is the head of the eldest family descended from the original Watandár and enter his name as sole representative Watandár," but if they are not descended from a common ancestor, then you must "register the names of the heads of such families" and the order in which they are to serve, Section 29, clause 2.

(4) If you find that service in successive periods has been introduced under British "rule in consequence of the reduction of the number of sharers or the amalgamation of watans," then it will be your duty to enter the names of the heads of each family that formerly "officiated as representative Watandárs," Section 30, and the order in which they are to serve. Whatever remarks you may find it necessary to make, you should quote the section under which you enter the names of the representative Watandárs.

It will be observed that, when the practice has been selection by the Collector, Section 29, clause 1, if the Watandárs are descended from a common ancestor then the name of the head of the eldest family descended from the common ancestor (original Watandár) can alone be entered, but as this will operate with great harshness in disinheriting every other member of the watan, you will do well to look with great suspicion on the evidence of a common ancestry, and not admit it without the clearest proof.

When a common ancestry is clearly proved, then you should represent to the Watandárs that unless

they accept a compromise under Section 31 they will all be disinherited except the one sole representative Watanár selected under Section 29, clause 1. When this is properly put before them, they will seldom fail to accept a compromise, and it should then be distinctly recorded that the Watanárs are appointed under Section 31, and that service is for life under Section 38.

When an appeal is made to the Collector or Commissioner from the decision of the Assistant Collector or Collector, the appellate authority should prepare a record, in substance, as follows:—

Proceedings on appeal from the decision of
dated before Collector
Camp 1881.

Recorded petition of appeal under Section 78.

Note should be taken if the period of 60 or 90 days allowed for appeal has expired.

The objections raised by the appellant should then be briefly stated and the decision with the reasons for it recorded.

(G. C. No. 7878, dated 26th December 1881.)

14. The following opinion (No. 279, dated 1st March 1882) was recorded by the Remembrancer of Legal Affairs on the question whether a decision passed by a Collector on an appeal and under the Watan Act admitted after it was time-barred would be legally valid:—

“Chapter XIII of the Land Revenue Code, 1879, relates to appeals from any decision or order passed by a Revenue officer under that Code ‘or any other law for the time being in force,’ and Section 206 provides for the admission of an appeal under that chapter after the period of limitation on sufficient cause being shown for not presenting the appeal within such period; and no appeal lies from an order passed under that section admitting an appeal.”

(G. R. No. 1920, dated 22nd March 1882.)

15. The Commissioners of Divisions when forwarding to Government a case for revision under Section 79 of Act III of 1874 should, when the interests of the person in whose favour the decision of the lower Court operates will be injuriously affected if the Commissioner’s recommendation is adopted, give him an opportunity of making any representation upon it which he thinks necessary for a just appreciation of his case. (G. R. No. 5381, dated 3rd July 1885.)

16. In watan appeal cases fresh evidence should certainly not be admitted without limit or reserve, and the admission of fresh evidence in appeal should be regulated by the procedure laid down for Civil Courts in the Civil Procedure Code. (G. R. No. 6981, dated 1st September 1884.)

17. The principles on which Civil Courts act as to the admission of evidence which it is the duty of the parties to produce should be the guide in the hearing of watan cases. (G. R. No. 8, dated 3rd January 1885.)

18. In watan appeals a Collector or Commissioner can only pass his decision on the points raised in appeal, but when a decision appealed against is found not to be in accordance with law in respect of points other than those raised on appeal, the proceedings in the case should be submitted with the Commissioner's opinion to Government for revision under Section 79 of the Watan Act. (G. R. No. 7192, dated 5th September 1885.)

19. A Collector has no authority under the Bombay Hereditary Offices Act to review a decision passed by himself. Government have directed that the admission of fresh evidence on appeals under the Act should be regulated by the same rules which apply to the admission of such evidence under the Civil Procedure Code. There were, no doubt, good reasons for this order, and as it does not confer upon Collectors any new power which they do not possess under the Act, there is no legal objection to it. But it is not competent for Government to direct that Collectors may review their own decisions. The Act provides ample means for correcting any erroneous decision which may be passed. (G. R. No. 988, dated 2nd August 1886; *vide* G. R. No. 5922, dated 19th *idem*.)

20. It is undesirable to confer powers under Bombay Act III of 1874 on Inámdárs save in very special and exceptional instances. (G. R. No. 2183, dated 19th March 1886.)

21. The following opinion of the Remembrancer of Legal Affairs, No. 707, dated 29th June 1889, was communicated to the Collectors and Commissioners:—

“In the matter referred to in the Government No. 2948, dated 17th April 1889, memorandum, marginally noted, the Collector of Sátára reversing an order of his Assistant refused to allow one Náráyan to officiate as a Kulkarni, because six years previously the brother of the said Náráyan had been convicted of breach of trust.

“2. The Commissioner, C.D., dealt with the matter on appeal and reversed the Collector's order.

“3. The Collector has now raised the question whether an appeal lies.

“4. The Commissioner is of opinion that Section 77 does not apply to this case so as to bar a second appeal, as that section only refers to decisions passed after investigation recorded in writing, and Section 73 does not require an order of this nature to be passed after such investigation.

“5. Section 73, however, is not exhaustive in its enumeration of investigations requiring record in writing, and though it does not require an order refusing the service of a representative Watandár to be so recorded, Section 45 (e) as amended by Section 9 of Bombay V of 1886 does.

“6. The order of the Collector was entirely *ultra vires*, as Section 45 only contemplates such

a refusal in the case of a representative Watandár who is *personally* of bad character, and such refusal must be preceded by a summary enquiry regulated by Section 195, Bombay Land Revenue Code, in which a minute of the proceedings must be recorded in the Collector's own hand and must embrace the material averments of the parties.

"7. I think an appeal in this particular case would lie from the Collector's order to the Commissioner. For that order was a new and substantive order passed in a matter requiring investigation. Although it purported to be passed in appeal, it was really not an order that could legally have been passed by the Collector in his appellate capacity, but one which would fall under a distinct section of the Act, in the exercise of a distinct and special power requiring an investigation for which a special procedure is prescribed, and which, under Section 196 of Bombay V of 1879, became, what his Assistant's proceeding was not, a judicial proceeding.

"8. I therefore think that his refusal to accept the service of the representative Watandár was a substantive and original order in itself, and that an appeal lay to the Commissioner.

"9. I think that the general control given to Commissioners by Section 74 would not warrant their interference in particular instances, but only the giving of general instructions. The power of revising or modifying orders, when no appeal lies, vests in Government alone under Section 79."

(G. R. No. 5365, dated 27th July 1889.)

22. Section 203 of the Bombay Land Revenue Code, 1879, provides for an appeal from all decisions and orders, original or appellate, passed by a Revenue officer under any law in force, unless the right of appeal is expressly withheld by legislation. Not only an appeal but a second appeal will lie from a decision or order under Act III of 1874, as amended by Act V of 1886, passed without recorded investigation.

The conclusion that the Bombay Land Revenue Code expressly provides for appeals in such cases, is borne out by the history of the Bombay Land Revenue Code itself.

Bombay III of 1874 does not expressly provide for an appeal, except in the case of decisions passed after investigation recorded in writing by a Collector, Assistant or Deputy. But, on the other hand, it does not deny the right of appeal from any decision or order, except in the cases specially enumerated in Section 76.

Section 203 of the Bombay Land Revenue Code enacts that an appeal shall lie from *any* decision or order passed by a Revenue officer under any law for the time being in force in the absence of an express provision of law to the contrary.

There cannot be the slightest room for doubt that Section 203, Bombay Land Revenue Code, had in contemplation decisions and orders which might be passed under Bombay III of 1874.

For the Bombay Land Revenue Code was under most careful consideration for more than five years. It was first taken in hand not long after Bombay III of 1874 became law, and was originally intended to consolidate the entire law governing the duties and procedure of Revenue officers.

The provisions of Bombay III of 1874 were actually embodied *in extenso* in the second draft of the Code as Chapter III thereof, and in redrafting those sections, the greatest care was taken to specify in each section whether a summary or a formal enquiry should be made before passing a decision or order. In this draft, which was printed with the comments of all the officers consulted, Mr. Naylor remarked (Section 268) that 'the object of these sections has been to secure a proper investigation and regularity and uniformity of procedure in all matters in which Revenue officers are called upon to exercise judicial or quasi-judicial functions, and thus to remove one great objection which now exists to barring the cognizance of any such matters by the Civil Courts, *viz.*, that under the existing law, Revenue officers are bound by no rules of procedure, and may, if they choose, decide upon the most important questions, not only in the absence of those concerned, but also without making any enquiry or hearing any evidence at all. In every instance, therefore, in which an inquiry is directed to be made in this Bill, it has been stated whether such inquiry should be formal or summary, and where neither a formal or summary inquiry is prescribed, the officer is left to resort to such ordinary means of obtaining information as he may be directed to use by his superior officers or as may seem to him most fit.'

Had that draft been accepted in its integrity, a summary enquiry would have been necessary, as a condition precedent to orders now passed under Sections 8, 9, 11, 18 and several other sections of Bombay III of 1874, and a formal enquiry would have been required for orders now passed under Section 25 and other sections of the same Act.

In cases where such enquiries had been held and recorded by *the Collector, his Assistant or his Deputy*, it seems to have been thought that *one* appeal would be sufficient to secure accuracy of decision and provided against irregularities.

The chapter of that draft relating to Hereditary Offices, like the parts relating to Summary Settlement, were, however, in consequence of correspondence with the Government of India, omitted from the Bombay Land Revenue Code, and thus no exhaustive provisions exist as to procedure to be followed before passing a decision or order under each section of Bombay III of 1874. The proceedings of Revenue officers may, however, be regulated by supe-

rior official direction and control under Section 188, or by rules under Section 197, Bombay Land Revenue Code.

But where it was intended to specify the procedure necessary under each section, it was still contemplated that an appeal and second appeal should lie from every decision and order passed, unless enquiry duly recorded had been made by certain officers of high official standing. It was only in the case of decisions passed after investigation recorded in writing by a Collector, Assistant or Deputy that only one appeal was held to be necessary.

Apparently it was thought that where the procedure was informal, and the grounds for decision not clearly and fully set forth, there was all the more necessity for appellate control.

Section 203 of the Bombay Land Revenue Code was thus advisedly framed with reference to the provisions of Bombay III of 1874.

When the provisions requiring recorded investigations were abandoned, Section 203 was retained, and appears to have been recognised by the Legislature as necessary to provide for cases of informal procedure.

It has been argued that as only one appeal lies where investigation has been made and recorded, it may be assumed *a fortiori* that no second appeal would have been deemed necessary where no investigation had been held. But the view taken in the preparation of the Code appears to have been the reverse of this. The draft would have allowed but one appeal, if the decision were accompanied with a record containing its justification. In all other cases a second appeal would lie from all decisions and orders passed in the exercise of powers conferred by the Act.

Decisions and orders may, as Act III of 1874 stands, be passed without any record of investigation in cases for which it was at one time proposed to require such record. Section 203 of the Bombay Land Revenue Code was apparently advisedly retained to cover such cases. If the Collector, his Assistant or Deputy has himself investigated before passing his order, and has recorded the grounds of his decision, then the Legislature appears to have thought there would be no such necessity for a second appeal as would exist in cases where a Revenue officer might in the words of the Honourable Mr. Naylor 'decide upon the most important questions, not only in the absence of those concerned, but also without making any inquiry or hearing any evidence at all' (G. R. No. 8506, dated 8th November 1889.)

23. Officers holding proceedings under the Watan Act should not merely cause notices to be affixed to the 'chavdi' under Section 80, but take such other measures as are likely to be effectual for securing the presence of parties interested, either by adopting a procedure similar to that prescribed in Sec-

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tion 191, Land Revenue Code, or in such other way as may seem proper under the circumstances. (G. R. No. 6302, dated 3rd October 1898.) ✓

24 There is no objection to applications for permission to alienate any watan being presented to the Collector in the first instance and being by him submitted to Government (through the Commissioner) for orders. (G. R. No. 3261, dated 20th April 1896.)

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PART XIV.—MATADARI WATANS.

I. The following form of watan register to be prepared under the Matadars Act has been approved by Government:—

Register of Service Lands and Allowances of Matadars under Section 65 of Bombay Act III of 1874 and Section 5 of Bombay Act VI of 1887,
Taluka, District

No.	Name of Village.	Number of distinct matadari families separately recognised in the Collector's records, Section 5 a.	Names of Matadars according to existing lists (Section 7) or as ordered by the Collector to be entered under Section 7 (a).	Names of representative Matadars of each family to which a right to hold the office of Patel appertains, Section 5 (b) and Section 8.	Order of rotation in which failing appointment by election the right to Patel's office is to vest in the representative Matadars (Section 5 d).	DESCRIPTION OF SERVICE LANDS HELD BY EACH MATADAR FAMILY (SECTION 5 f).					Amount and nature of cash or other allowance held by each Matadar family (Section 5 g.)	Number of persons required to officiate as Patels (Section 5 e.)	WATAN PROPERTY OR PROFITS ASSIGNED FOR THE EMOLUMENTS OF THE OFFICIATOR (SECTION 5 h).		Date on which Watan Register is prepared.	Signature of officer preparing the Register.
						Survey number.	Area.	Assessment.	Quit rent if any, payable to Government.	Net Revenue alienated by Government for watan.			Cash.	Land.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	Atgam	Four	A. B. ... C. D. ... E. F. ... G. H. ... J. K. ... L. M. ...	A. B. ... C. D. ... E. F. ... G. H.	C. D. 1 (1889 to 1899). E. F. 2 (1899 to 1909). G. H. 3 (1909 to 1919). A. B. 4 (1919 to 1929).	11 12 13 14 15 16	5 5 5 5 1 1	Rs. 30 30 30 30 5 5	... ... ... ... ... ...	Rs. 30 30 30 30 5 5	5 5 5 5 5 5 5	One	Rs. 100 cash allowance from the Treasury	Rs. 100 from the lands mentioned in column 8 at Rs. 25 from the lands held by each of the four representative Matadars.	25th June.	(Sd.) A. B., 2nd Att. Collector.
								130		130				200		

(G. R. No. 3270, dated 21st May 1888.)

2. The following reply given by the Commissioner, N. D., in his letter No. 1824 dated 12th June 1888, to the Collector of Broach, on the subject of the preparation of registers and the appointment of Police Patels under Bombay Act VI of 1887, was approved by Government :—

"2. I think that you have misunderstood the portion of the debate quoted by you. It appears to me that the remarks of the Honourable Mr. Richey and of His Excellency the President have the effect simply of showing that *the particular clause of the Bill then under consideration* had no bearing on *Police Patels*, because such officers are appointed under special commission by the District Magistrate, who may therefore insist on such educational test as he considers necessary.

"3. The connection of the Police Patel's office with the patelki watan is of very old date, and I will endeavour to show that such connection has never been legally severed.

"4. Regulation 4 of 1818 establishes 'a system of Police founded chiefly upon the ancient usages of the country' and under Section III 'Heads of villages' are appointed 'heads of the Police of their respective villages.' These 'Heads of villages' are defined as persons coming under the denomination of Patels, Pátidárs, or any other designation, the person who collects the revenue, and under whose authority the village servants act.'

"5. Section VI of Regulation 12 of 1827 prescribes (a) that when there is *only one* Revenue Patel, he should be also the Police Patel, and (b) that when there are *more than one*, the Police Patel should be selected by the Magistrate. The Police duties are thus entrusted to the responsible body of revenue managers the Matádárs.

"6. Act XI of 1843 recognises the principle of hereditary officers performing Police duties (see Sections 2 and 15).

"7. Section 5 of the Village Police Act has already been quoted by you. This continues the principle of the Regulation of 1827 already referred to.

"8. The definition of 'Hereditary officer' in Bombay Act III of 1874 has in no way been modified by subsequent legislation, and 'an hereditary officer' consequently continues to include one 'connected with the village Police.' Any other supposition would involve a vital change from the system above established which is referred to by the Honourable Mr. Richey in the concluding words of your first quotation, and any such change would require legal provision.

"9. I think, moreover, that the words 'every Patel's office' in Section 13 of the new Act may have been inserted to prevent any possible misunderstanding.

"10. Under the above explanation your difficulty regarding the *emoluments* of the Police Officiator will probably be removed. Under Section 23 of the old Act you decide how many officiators are required, and subsequent grant to one of these of a Police Commission cannot affect the authority for his appointment. You divide the emoluments in the usual manner, *adding* an allowance when necessary under the rules at page 348 of the Survey Manual.

"11. In reply to your 4th question I beg to refer you to Government Resolution No. 3014 of the 22nd August 1866.*

* This Resolution laid down the following rules with a view to obviate delay in the investigation into claims under Act XI of 1843 to hold the appointments of Patel and Kulkarni :—

'A complete list of all the shareholders in each watan in districts where such lists are not already kept should be prepared as soon as possible; and a column left for any alterations that may hereafter be necessary consequent on the occurrence of death, or other vacancies. This list should be signed by the shareholders. In cases of dissent the entries should be made on the order of the Assistant Collector pending a decision of a Court of Law. At the expiration of ten years, a fresh Register, embodying all the alterations that may have been made during the interval, should be prepared.

and to this office vernacular, dated 17th January 1867. Registers made in accordance with these orders, or subsequently under Act XI of 1843 or III of 1874 are the lists referred to (in section 7 of Act VI of 1887)."

(G. R. No. 4530, dated 9th July 1888.) ✓

3. The general object and provisions of the Matádári Act, 1887, as well as the express words of its Section 1 shows that the Legislature intended that all "existing" appointments to Patels' offices in the districts to which the Act extends should cease to hold good, at the latest, on the expiry of two years from the Act coming into force, and that fresh appointments should be made to those offices under the provisions of the Act. (L. R. No. 908, dated 26th May 1891; *vide* G. R. No. 5590, dated 14th August 1891.)

4. Section 7 of the Matádárs Act prescribes the method by which the Collector is to ascertain the names of Matádárs to be entered in the register prepared under Section 5.

Where a list of Matádárs made under the orders of Government subsequent to the year 1866 exists, and the entries in it were not the subject of dispute when the Act came into force, the names in that list are to be entered in the register.

But in the cases described in proviso (a), which include the case of there being no such list as above-

'At the time of the Jamábandi settlement the Mámlatdár should submit a list of all the vacancies that are known to be about to occur during the ensuing year; and the officer making the settlement should then and there in the presence of the parties, make the nomination. All disputed claims relating to the entry of shares in the list above referred to should be disposed of in the same manner and at the same time. The grounds of decision in all cases should be briefly written by the officer making the appointment in his own handwriting.'

In Government Resolution No. 764, dated 23rd February 1869, the following further instructions were given in regard to disputed claims by village hereditary officers to officiate:—

'His Excellency in Council is satisfied that disputes of this nature can only be properly enquired into and disposed of by the Assistant or Deputy Collector personally taking the evidence of the parties, and recording his decision in their presence.

'The old practice which obtained in so many collectorates of disposing of these cases on the written vernacular reports of the district officers was in every respect a most objectionable one.

'In all cases of appeal to Government a copy of the record of decision should be invariably sent up.'

Government Resolution No. 2967, dated 22nd July 1869, directed that Mámlatdárs should not be allowed to interfere in any way in cases of disputed nomination; that the jamábandi was the proper time at which to dispose of this kind of business; that it would be the duty of the Mámlatdár to submit beforehand to the Assistant or Deputy in charge of the táluka a list of the vacancies that would occur during the ensuing year, distinguishing the cases in which the shareholders were unanimous from those in which they were not, that beyond this the Mámlatdár should not take any part in the matter; that in disputed cases the Assistant or Deputy Collector would make an abstract of the evidence, together with the decision, in his own handwriting, and that Government would not fail to notice with marked displeasure any instance in which these orders might be disregarded.

Government Resolution No. 2183, dated 9th May 1870, directed that a day should be fixed for the investigation, and if, after reasonable notice had been given, the parties did not appear, a decision should be passed in their absence, and that appeals should be discouraged as far as possible, but the Collector or Commissioner or Government should not be precluded from taking an appeal on any palpable error which might perpetuate an injustice.

Government Resolution No. 4809, dated 22nd July 1882, directed that in all disputed cases of village watans submitted to Government the register prepared in accordance with Government Resolution No. 3014, dated 22nd August 1866, should be quoted.

By Government Resolution No. 2516, dated 28th March 1883, the Commissioners were informed that it was necessary to prepare lists under Act XI of 1843 as directed in Government Resolution No. 3014, dated 22nd August 1866, where such lists had not already been prepared.

mentioned in existence, the Collector, after holding a summary inquiry, is to enter in the register "the name of each member of a Matádár family who shall appear to him to have been recognised in the records previous to the year 1867 as a Matádár of the family." The Act does not say what shall be deemed to constitute recognition as a Matádár; this is left to the Collector's judgment, and it is understood that any one with local knowledge can have no difficulty in saying from the records whether or not there has been such recognition.

The entry in the register of the name of the representative Matádár is a distinct matter. That is governed by Section 8 of the Act.

(L. R. No. 1790, dated 30th October 1891; *vide* G. R. No. 8024, dated 24th November 1891.)

5. The Matádárs' Act VI of 1887, while providing in Section 22 for the appointment by the Collector of a Deputy when a *sole* representative declines to officiate and fails to appoint a deputy, makes no such provision for similar default by representative Matádárs. The section quoted was intended to supply the place of Section 44 of Bombay Act III of 1874 repealed (so far, as that last mentioned Act applies to Matádárs) by Section 3 (1) of Bombay VI of 1887.

Section 22, as originally drafted, ran as follows:—

'If a sole representative Matádár *or when there are two or more representative Matádárs each of them in turn*, declines when so required by the Collector to officiate in person or fails to appoint a fit person to be his deputy * * * * * the Collector shall appoint a Deputy.'

The words in italics in the above quotation were deleted on the second report of the Select Committee appointed to consider the Bill, apparently because the right of election was by Section 17 (then inserted) to be given in all cases, except where Section 14 would apply, *i.e.*, where there was a sole representative.

On an election failing, the representative Matádár of the family whose turn it was, would have the office (Section 17) and on his declining to officiate or appoint, the right would pass to the family next in order of rotation, and an election would again be necessary. It is evident that the contingency of all the elections proving successively abortive did not suggest itself as one requiring provision for a permanent appointment by the Collector.

It was probably considered where there were several Matádár families in whom the office vested, that there would be no permanent incapacity or default to officiate or appoint, and that the provisions of Section 28 would apply till the vacancy could be filled up in accordance with the provisions of the Act.

Therefore, when all elections have successively failed and the representative Matádárs have succes-

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sively proved unable or unwilling to officiate and appoint, the only course practicable is that provided by Section 28, which gives the Collector power to appoint such person as he thinks fit, whether a member of a Matádár family of the village or not, to officiate *temporarily*. Such appointment, however, does not operate as one made under Section 21 would. It is made only in view of an interval occurring between the occurrence of a vacancy and its being filled up in accordance with the ordinary provisions, and it does not interpose any permanent and irremovable obstacle to the re-exercise of rights by a representative on his becoming able and willing to officiate or appoint. (L. R. No. 1059, dated 12th July 1892; *vide* G. R. No. 6124, dated 28th *idem*).

6. Registers prepared under the provisions of Part VI of Bombay Act III of 1874 do not fall in the category of 'lists of Matádárs' mentioned in Section 7 of Bombay Act VI of 1887, which really refer to certain lists prepared under an executive order issued by Government in 1866. (G. R. No. 5605, dated 3rd August 1893.)

7. The effect of Sections 5 and 7 of the Matádárs Act, 1887, is that no person is to be entered as a member of a Matádár family in the register prepared under Section 5, whose name was not entered in a list of Matádárs made under the orders of Government since 1866 and before the Act came into force, except as specified in the provisos (a) and (b) to Section 7. It would seem that the Legislature intended to make the list, made by orders of Government, conclusive and to exclude from the register those members of Matádár families who had not had their names inserted in them.

The register, having once been made under Section 5, cannot be amended under the power given in the last clause of the section by inserting in it the names of persons who had been excluded from the previous lists: this power is only to be exercised whenever any change is made in any of the particulars specified in the register in accordance with the provisions of the Matádárs Act or the Bombay Hereditary Offices Act.

(The Hon'ble the Advocate General's opinion No. 13, dated 2nd March 1896; G. R. No. 3259, dated 20th April 1896.)

8. The difficulty created by the opinion* of the Legal Remembrancer in regard to cases governed by the Matádárs Act arises out of the absence in that Act of any recognition of the office of Police Patel as distinct from that of Revenue Patel. But if the Matádárs Act and Bombay Act VIII of 1867 are read together, it seems to follow that the former

* No. 1019, dated 15th July 1890, appended to G. R. No. 5394, dated 2nd August 1890, and printed as a foot-note to paragraph 8 of Part IV, Police Patels, of the "Village Officers and Servants" section of the Compilation.

Act governs only the appointment to the revenue patelship, the appointment to the police patelship being a separate question governed by the latter Act, which requires that, *unless the Commissioner sees fit to separate the appointments*, the Revenue Patel shall also be appointed Police Patel, and that in making the appointment regard shall be had to the Hereditary Offices Acts *so far as they may be applicable*. Having regard to these provisions of the law, Government consider that in cases in which there is, as a matter of fact, an admitted or established custom of service as Police Patel, the difficulty arising from the fact that such a custom cannot be separately and authoritatively recognised under the Matádárs Act may be got over by separating the offices under Section 5 of Bombay Act VIII of 1867. The effect of this arrangement would be that appointment to the revenue patelship will be made in accordance with the provisions of the Matádárs Act, while the District Magistrate will be free in the absence of anything applicable to the case in the Matádárs Act to appoint the Police Patel independently and, in so doing, to give effect to the custom of the watan, which, though it cannot be made the separate subject of a declaration under Section 6 of the Matádárs Act as it stands, might be recorded for the purpose by making a note in the mata register in the manner suggested by the Legal Remembrancer in the opinion * embodied in the preamble of Government Resolution No. 5902, dated 2nd September 1887. (G. R. No. 4894, dated 9th June 1894.)

* No. 1058, dated 12th August 1887, printed as a foot-note to paragraph 3 of Part IV, Police Patels, of the "Village Officers and Servants" section of the Compilation.

PART XV.—DISTRICT HEREDITARY OFFICERS.

1. Allowances continued to hereditary district officers after commuting the claims of the State to service from them can no longer be looked upon as official emoluments, but are in the nature of hereditary personal property and as such should be debited to the head of "Allowances and Assignments under Treaties and Engagements." (G. R. No. 2524, dated 4th July 1864; *vide* also G. L., F. D., No. 2409, dated 13th September 1864, and G. M. No. 3865, dated 7th October 1864.)

2. The procedure suggested by Mr. Gordon, President of the Watan Commission, in his report included in the following correspondence should be invariably adopted:—

"I have the honour to inform you that Bayábái, who manages the watan of her husband Govindráo Trimbak, Deshmukh and Deshpánde of Dindori, in consequence of his being insane, has applied for permission to adopt a son. She has no issue, and wishes to adopt the son of her brother, Raghupat Malhár. Govindráo Trimbak has no heir or relation, and when he dies his family will become extinct.

"2. The aggregate proceeds of the watan amount to Rs. 1,387-15-8, *minus* the amount leviable therefrom according to Mr. Gordon's settlement sanctioned in the Government Resolution No. 1210, dated 1st April 1864, *viz.*, Rs. 390-10-11, at four and a half annas in each rupee. There is no other sharer in the watan, and Bayábái, therefore, begs permission to make the adoption out of the family.

"3. This adoption is admissible in accordance with Mr. Gordon's settlement sanctioned in the Resolution above quoted, paragraph 17, clause 4, but subject to the payment of an annual nazarána of one anna in each rupee, which Bayábái is willing to pay annually in perpetuity.

"4. I have the honour, therefore, to request the sanction of Government to the adoption."

(Letter from the Collector of Ahmednagar, No. 2035, dated 11th October 1864.)

"The President of the Watan Commission, Deccan, has the honour to report that the proposal is in exact conformity with the third promise given in the sanad, and recommends, therefore, that Bayábái be permitted to adopt an heir.

"2. As this is the first case of this sort that has come before Government, it may be as well to take the opportunity of laying down some formal procedure by which the sanction of Government should be recorded.

"3. The best plan which occurs to the President, Watan Commission, to suggest is that an endorsement in English and Maráthi be written on the sanad, and signed and sealed by the Collector, stating that, according to the third promise given in the sanad, and under the sanction of Government No. and date , A has been permitted to adopt an heir, B, and the annual payment on behalf of the watan accordingly is henceforth fixed at Rs. * * "

(Letter from the President of the Watan Commission, No. 94, dated 14th November 1864).

(G. R. No. 4822, dated 5th December 1864). ✓

3. It is not necessary to forego the levy of nazarána of one anna on alienations or adoptions out of the families by district hereditary officers

who have accepted the watan settlement, and in respect of alienation the method least likely to cause difficulty would be to adhere strictly to the terms of the sanads in each case. In the case of watans in which the terms of Mr. Gordon's settlement do not expressly render them alienable without the consent of Government, the Collectors can proceed under Sections X and XI of the Hereditary Offices Act III of 1874 to prevent alienation by attachment or otherwise.

With regard to the continuing of watan emoluments to the widows of deceased holders, if the sanad undertakes to continue to male heirs only, a widow can have no claim, and if there are no male heirs lineal, collateral or adopted, the watan would seem to have lapsed.

(G. Rs. Nos. 3279, dated 2nd June 1876, 6070 dated 8th October 1877 and 2915, dated 23rd May 1881.)

4. Cases of adoptions by district hereditary officers out of the family on payment of nazarána should always be submitted to Government for sanction. (G. Rs. Nos. 6008, dated 5th December 1872, and 3201, dated 18th May 1877).

5. The nazarána taken in the case of district hereditary officers' watans on account of adoptions from without the family is one of the conditions of Mr. Gordon's settlement, and it must, therefore, be continued.

It is undesirable to treat mahál zamindari property converted into private property exactly like ordinary ináms, and it should be registered in the register of non-service watans. In the revenue account it may be treated as inám, being described, however, as settled mahál zamindari lands.

In other cases than the above the Re. 1 nazarána should be levied as hitherto, as it will facilitate the recording of changes of title. But in the case of "Representative Watandár," to whom and to whose widow the Act gives unqualified power to adopt, no nazarána can be levied. (G. R. No. 6282, dated 6th November 1875.)

6. In the case to which Mr. Gordon's settlement of watans has been applied, and which are entered in the Collector's records in the names of the widows of the last recipients who had died without leaving male issue, collaterals who could prove that they were entitled to succeed as next of kin should have their names substituted for those of the widows.

It is evident from the form of sanad issued to district hereditary officers in the Poona District in confirmation of the service commutation settlement made with them by Mr. Gordon, that Government have recognised the right of succession in virtue of lawful adoption by a widow from within

the watan family, and, therefore, that the widow's adoptive son has a perpetual claim over collaterals. A boy adopted by a widow has, according to Hindu law, precisely the same status as if he had been adopted during the widow's husband's life-time. (G. R. Nos. 6149, dated 19th October 1881, and 10054, dated 22nd December 1881.)

7. Government do not consider that any sufficient cause has been shown to lead them to any modification of the terms of the sanads granted to Watandárs in the Southern Marátha Country and the Deccan with a view to place these Watandárs on the same footing with those of Gujarát in the matter of female inheritance. The exact terms of the sanad must be strictly adhered to in each instance. (G. R. No. 7659, dated 17th December 1881).

8. Where the watan (Gordon's) settlement has been made with the widows, the sanads, in the accepted form, should be granted to them. The terms which restrict the succession to male heirs, and which under the orders of Government are to be strictly adhered to, cannot be enforced against the particular females in whose favour settlements have been already made and completed in every respect saving the formal delivery of the sanads.

The terms of the sanad are to be observed in questions of succession from the present holders, whether male or female, and there is nothing in those terms which bars succession by adoption. But it is to be observed that a childless widow who succeeds by inheritance to her husband's estate, by adopting a son to her late husband, divests herself of that estate in favour of the son adopted and is entitled to maintenance only. If the adopted son is a minor, she can obtain a certificate of administration and guardianship, and continue to manage the estate on his behalf until he comes of age.

In respect of non-service watans in the Khándesh District, Government in their Resolution No. 6149 of 19th October 1881, have sanctioned the proposal of the Commissioner, C. D., that the names of the widows should be retained in the Government books until their deaths, after which event the names of their legal male heirs should be substituted in their stead in accordance with the terms of the Gordon sanad. The form of sanad is, substantially, the same for Thána as for Khándesh and the widows with whom Mr. Gordon's settlement was made should be treated alike in both districts. In case, however, of the adoption of a person within the limits of the Watandár family or of an outsider (provided the general privilege of adopting outsiders who can be legally adopted has been granted) the name of the person adopted should be substituted for that of the widow as soon as the adoption has been made known and not on her death; and this course ought to be followed wherever this form of sanad prevails.

The payment of nazarána is not required except where the above-mentioned general privilege has been applied for and granted.

(L. R. No. 696, dated 15th June 1882 ; *vide* G. R. No. 4326, dated 5th July 1882.)

9. The ruling laid down in the foregoing Resolution No. 4326, dated 5th July 1882, is of general application. (G. R. No. 1184, dated 7th February 1884.)

10. Government are not prepared to abandon the decision resolved upon in 1881 which was that, as the district watan lands and cash allowances in the Deccan and Southern Marátha Country were continuable by the sanads hereditarily to the holders and their heirs, as long as any male heir to the watan lineal, collateral or adopted shall be in existence, the watan property secured by the sanad should be entered in the Government records in the name of the male heir from time to time entitled to succeed to it. At the same time it is stated in the sanad that Government will not raise any objection or question in consequence of the watan property being held by any other person with the consent of the owners under the sanad, and this concession appears to make sufficient provision for any rights of other persons than the male heirs. (G. R. No. 1071, dated 4th February 1885). ✓

11. If the widow under Gordon's settlement or the terms of the sanad has no right to succeed to the property, watan or cash payment, she can in no circumstances claim the latter or sue the Collector if he pays it to the lineal male heir who does claim it.

Government have decided to adhere to the view that male heirs only can be recognised under the sanads. The construction of the sanads is, however, proper matter for adjudication by the Civil Courts.

If a widow desires to sue the recognised male heir in order to establish her title to any watan property to which she may consider herself entitled, the Collector should grant her the certificate which would probably be required under the Pensions Act to enable her to institute the necessary proceedings.

(G. Rs. Nos. 10407, dated 24th December 1885, and 1653, dated 2nd March 1886.)

12. With regard to district hereditary officers' watans brought under Gordon's settlement it was ruled by Government on 30th June 1886 that "pending any further judicial decision, the practice of entering the name of the male heir of the original grantee should continue, and there should be no active interference with any holder of the property as long as a male heir is in existence," *i.e.*, that although the name of the male heir of the original grantee is to be entered, Government is not to interfere with the *possession* or *enjoyment* of the *watan property* by whomsoever it may be held so long as a male heir is in existence. Watan pro-

perty includes cash allowances. It, therefore, follows that their payment to persons in enjoyment of them for a long period is not to be interfered with, notwithstanding the fact that they may be standing in the name of the male heir in the Government accounts. Under No. 15 of the Rules under the Pensions Act, however, these allowances are to be paid 'only to those persons whose names have been authorizedly entered in the records as the payees thereof or to their duly empowered attorneys.' But the names of the actual holders not being entered in Government accounts, there will be an account objection to the payments being made to them. Therefore, the name of the *actual* holder should be entered after that of the male heir as recipient of the allowance; e.g., Ramchandra Vithal, recipient Govind Vishvanáth. It should be stated in the column of remarks that the allowance will be continued only so long as the male heir of the original grantee is in existence, and at the time of every payment the life certificate of the person in whose name the allowance stands should be insisted upon. (G. R. No. 176, dated 8th January 1887.)

13. A district hereditary officer's watan, subject to the Gordon's settlement, is to be continued 'so long as any male heir to the watan, lineal, collateral or adopted, within the limits of the Watan-dár family, shall be in existence.' In order to protect the reversionary right of Government, it would seem to be quite necessary to enter the name of the male heir. But there seems to be no objection to enter the name of the widow of the last male owner as valivatdár, when she is entitled to inherit the watan under Section 2 of Bombay Act V of 1886. (G. R. No. 7917, dated 23rd November 1891).

14. A question having been raised by the Collector of Belgaum as to whether the payment of compensation to district hereditary officers for their haks abolished by the operation of the revenue survey should be continued or should cease, it was ruled that the allowances should be continued under the watan settlement. (G. R. No. 3114, dated 20th July 1865.)

15. The haks of the village as well as the district hereditary officers of the Ratnágiri Collectorate should be calculated and paid on the actual revenue of the year instead of on the average receipts for 5 years. (G. R. No. 732, dated 20th February 1869, and G. R. No. 3353, dated 13th August 1869.)

16. The principle laid down by Mr. Gordon, that the sub-sharers of a watan are not to be considered in accepting or rejecting the watan settlement, is to be adhered to.

Whenever the watans belong to distinct families, and are so divided that the one could not inherit the share of the other, then it would seem proper

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to treat them as separate watans for purposes of the settlement.

(G. R. No. 1350, dated 5th April 1867.)

17. As regards the district hereditary officers of Gujarát who have accepted a non-service settlement, the number of sharers and sub-sharers, and the shares in cash and land enjoyed by each, should be endorsed on the back of the sanads, and a copy of the same recorded in the Collector's books. When a watan is divided into one or more large divisions, the Collector may grant separate sanads. But the size of the division entitling a sharer to a separate sanad is left to the discretion of the Collectors. (G. R. No. 98, dated 6th January 1870.)

18. The words "all the sharers of the watan" occurring in condition 3 of the conditions embodied in the form of sanad issued to district hereditary officers, &c., should be interpreted literally. There was nothing in the sanad to indicate that only the sharers whose names are entered in the Collector's records were meant. (L. R. No. 909, dated 21st July 1886; *vide* G. R. No. 5854, dated 16th August 1886.)