

# GENERAL RULES

IN FORCE IN THE

## REVENUE DEPARTMENT

UNDER THE GOVERNMENT OF BOMBAY.

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COMPILED BY

THE REMEMBRANCER OF LEGAL AFFAIRS.

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## PREFATORY NOTE.

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THE object of this compilation is to bring together the Rules which have been made from time to time under Acts of the Government of India and of the Government of Bombay, and which are at present to be found scattered throughout the *Government Gazettes* of years. Numerous additions and amendments have also been made to many of the Rules by Notifications published in the *Gazettes* from time to time. The Rules contained in this compilation have been carefully revised and corrected as near as can be up to date.

To facilitate reference, the compilation is divided into Parts, and a General Index of the whole has been added. In some of the Parts, a few important Resolutions of Government and Rulings of the High Court have been introduced, which are in themselves entitled to be observed as Rules.

The Rules are printed half-marginally to enable Revenue Officers to make all necessary alterations and amendments as may from time to time prove necessary.

The Rules made under Acts are, for greater distinctness, printed in larger type than Rules not made under any Act, as also Resolutions, Rulings, Notifications, Appendices, &c.

EDWARD CORDEAUX, LL.M.,

Acting Legal Remembrancer.

*Poona, March 24th, 1882.*

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Additional copies of the compilation being required by Government, opportunity has been taken to revise the first edition up to date. It is requested that officers who have already been furnished with the first copies that were printed will cause all necessary corrections and additions to be made therein in their offices.

EDWARD CORDEAUX, LL.M.,

Acting Legal Remembrancer.

*Poona, November 1st, 1882.*

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(1) UNDER SECTION 213.

### I.—INSPECTION.

1. The documents, maps, registers, accounts and records, the right of inspection of which is provided for in section 91 of the Indian Registration Act, 1877, and in section 213 of the Borabay Land Revenue Code, 1879, and all public documents which any person has, under the provisions of any law for the time being in force, a right to inspect, shall be open to inspection in the office of the officer in charge of the same during the usual office-hours every day, except Sundays and public holidays, on payment of the fee hereinafter prescribed in this behalf: Provided always that no fee shall be levied by any village officer for allowing inspection of any such document, map, register, account or other public document as aforesaid which is in his charge.
- Inspection of documents to which the public have a legal right when and how to be permitted.
2. Except in the cases named in the last preceding Rule, no inspection of any public document will be allowed.
- Inspection not to be permitted without a legal right.

### II.—EXTRACTS AND COPIES.

3. No uncertified copy or extract shall be obtainable of or from any document other than those described in Rule 1, nor otherwise than under this Rule.
- Uncertified copies and extracts how obtainable.

Any person entitled to inspect any public document under Rule 1 may himself make a copy, or employ his own agent to make a copy, of any public document, or of any portion of any public document of which he has duly obtained inspection; but no copy so made shall be certified by any public officer.

4. The officer in charge of any public document described in Rule 1 shall cause to be prepared, and give a certified copy of the same, or of any portion thereof under his own signature, to any person applying for such copy, on payment of the fee hereinafter prescribed in this behalf: Provided that every application for a certified copy of any public document in the charge of a village officer shall be made to the Mámátdár or Mahálkari to whom such officer is subordinate, who shall cause the copy to be prepared by the village accountant. Every such copy, after being
- Certified copies or extracts of or from the documents described in Rule 1 how obtainable.

compared by the village accountant with the original, shall be signed by him in token of its being correct, and shall be sent by him to the Mámíatdár or Mahálkari for the purpose of being certified and made over to the applicant. No village officer shall himself certify a copy to be a true copy, or receive or grant an application for any such copy.

5. Subject to the proviso contained in the last preceding Rule, certified copies of public documents, or of portions of public documents, other than those described in Rule 1, may be granted by the officer in charge thereof to any person applying for the same, on payment of the fee hereinafter prescribed in this behalf: Provided—

When certified copies or extracts may be granted of or from public documents other than those described in Rule 1.

- (a) that in disposing of any such application the officer to whom the same is made shall be guided by the orders of Government and of any officer to whom he is subordinate, and in case of doubt shall, before disposing of the same, refer to his immediate superior for instructions;
- (b) that no copy of any official correspondence or of any opinion of a Government law officer, or of any order or resolution embodying any such opinion, shall be given by any officer subordinate to a Collector without the Collector's previous permission, or by any survey officer without the previous permission of the Survey Commissioner;
- (c) that no copy shall be granted of any record, map or plan which has been printed or lithographed and published under the authority of Government;
- (d) that no copy of any document is to be given in any case in which it is obvious that such a course would be prejudicial to Government.

6. On every certified copy or extract granted under these Rules there shall be written on certified copies. Fee-endorsement to be endorsed, by the officer who receives the fee for the same, a receipt in the following form (namely):—

“Received Rs. a. , being the fee for this certified copy.

Dated the of 188 .

(Signed) A. B.”

7. The certificate on all certified copies or extracts granted under these Rules shall be in the form prescribed by section 76 of the Indian Evidence Act.

### III.—SEARCHES.

8. When an application is made for an inspection or copy of any public document, or of any portion of a public document, and such application does not distinctly describe the number, date and nature of the document required; or if the description given in such application is incorrect, Search-fee when payable.

and it shall in consequence be necessary for the officer in charge of the document to search his records in order to find it, a fee, at the rate hereinafter prescribed, shall be payable by the applicant for such search, whether the inspection or copy for which he applies shall, on examination of the said document by the said officer, be granted or not : Provided that no such fee shall be levied by a village officer.

IV.—FEES.

Table of fees to be levied. 9. The following fees shall be levied in cash, under these Rules (namely):—

- (1) For every inspection granted under Rule 1 by any officer other than a village officer ... 8 annas.
- (2) For every certified copy of a public document not falling under Article (3) of this Table :—
  - (a) if the original be in English, for every 100 words or fraction of 100 words ... 2 annas.
  - (b) if the original be in the vernacular, for every 100 words or fraction of 100 words... 1½ annas.
  - (c) if the original be in a tabular form, whether in English or the vernacular ... } twice the rates respectively named in clauses (a) and (b).
- (3) For every certified extract from a Register of Alienations granted under section 53 of the Bombay Land Revenue Code ... } 1 anna for every rupee of the amount of alienated revenue, provided that the fee shall in no case exceed Rs. 10 or be less than 8 annas.
- (4) For every certified copy of a map of a survey number, or of a recognized share of a survey number, or of a field, or of any ordinary (uncoloured) map, or plan of any immoveable property ... 1 rupee.
- (5) For every certified copy of a map or plan, or of any portion of a map or plan not falling under Article (4) of this Table ... } such fee not exceeding fifteen rupees, and not less than one rupee, as the officer who certifies the copy shall determine : Provided that no fee exceeding Rs. 5 shall be charged by any officer subordinate to a Collector except with the permission of the Collector, or by a survey officer except with the permission of the Survey Commissioner.
- (6) For every search made by any officer other than a village officer... } 1 rupee for each year of which the records shall be searched.

Fees to be paid in advance.

10. Every fee payable in accordance with the foregoing Table shall be paid in advance.

11. The amount of all fees so received shall be entered in a separate book to be kept for this purpose by the officer in charge of the records, and shall be remitted before the close of each month to the nearest Government Treasury after deducting the amount paid, in the case of certified copies and extracts, to section-writers under Government Resolution No. 3356, dated 11th November 1874, Financial Department, or under any other orders of Government that may be hereafter issued.

## V.—MISCELLANEOUS.

12. Every application under these Rules, except an application under Rule 1 to a village officer, must be made in writing.

13. Every such application shall be numbered and filed by the officer to whom it is presented, and shall be endorsed with a memorandum, under his signature, stating the date on which it was presented, the amount of fees, if any, received either at the time of presentation thereof or subsequently at any time, and the date and manner in which the application was disposed of.

14. In considering any application purporting to be made under sections 90 and 91 of the Indian Registration Act, 1877, or under section 213 of the Bombay Land Revenue Code, 1879, or under any other law which grants to any person a right of inspection, special care must be taken to see that the public document, with respect to which such application is made, is one to which the law relied upon is applicable, and that the applicant is a person entitled to inspection (and, therefore, if he requires it under section 76 of the Indian Evidence Act, to a copy) before granting the application as a matter of right.

15. Nothing in these Rules is to be deemed to affect the provisions of the Stamp Act or Court Fees Act. The stamp-duty or court-fee with which any application, copy or extract made or furnished under these Rules may be chargeable, is to be deemed to be in addition to the fees prescribed by Rule 9, and care is to be taken that the requirements of the Stamp Act and Court Fees Act are properly fulfilled in respect of every such application, copy or extract.

16. In these Rules the words "public document" are to be deemed to have the same meaning as in the Indian Evidence Act I. of 1872 (see section 74 of that Act).

17. Nothing in these Rules applies to the city of Bombay or to any civil or criminal court.

SCALE OF FEES FOR COPIES AND TRANSLATIONS OF DECISIONS AND ORDERS, &c., IN FORMAL OR SUMMARY INQUIRIES MADE UNDER THE PROVISIONS OF SECTION 198 OF BOMBAY ACT V. OF 1879.

*Copying Fees.*

In the case of English copies .....	1½ annas per 100 words.
In the case of vernacular copies .....	1 anna per 100 words.
If the original be in a tabular form, whether in English or the vernacular .....	Double the ordinary rates.
For examining and comparing .....	½ anna per 100 words.

*Translation Fees.*

For the first 100 words...	8 annas.
For every subsequent 100 words or part of a hundred words .....	4 annas.



(2) UNDER SECTION 214.

I.—PRELIMINARY.

1. In these Rules and Orders :

(a) words and expressions which are defined in the Code have the same meaning as in the Code ;

(b) " chapter " means a chapter of the Code.

II.—SECURITY TO BE FURNISHED BY REVENUE OFFICERS. [Sections 23 and 214 (i) of the Land Revenue Code, 1879.]

2. The revenue officers hereinbelow mentioned shall, previously to entering upon their office, furnish security to the amounts respectively entered against their names\* :—

	Rs.
Head Accountants ... ..	} 5,000
Mámlatdárs ... ..	
First Kárkún to Mámlatdárs ... ..	1,000
Second ditto ... ..	500
Mahálkari with Treasury ... ..	1,500
First Kárkún to ditto ... ..	500
Mahálkari without Treasury ... ..	500
Treasurer at Poona ... ..	80,000
Ditto at Kánara, Kolába and Ratnágiri ... ..	20,000
All other Treasurers ... ..	40,000
First Kárkún to Treasurers of Kánara and Ratnágiri ... ..	1,000
All other First Kárkúns to Treasurers ... ..	2,000
Second Kárkún to Poona Treasurer ... ..	2,000
Kárkúns other than any of the foregoing employed in Huzúr or Mámlatdárs' offices on shroff's work ... ..	1,000
Ditto in Mahálkaris' offices... ..	500

Stipendiary Patels or Village Accountants appointed under section 16 of the Code, whose annualemoluments exceed Rs. 50.	} 200, or the amount of one year's emoluments of such officer, whichever sum be the smaller.
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3. It shall be at the option of the officer required to furnish security to deposit Government paper or to execute a bond for the amount of his security.

If he executes a bond, the number of sureties shall be one or more, at his option, if the amount of security does not exceed Rs. 1,000, and, if the amount of the security exceeds that sum, shall be not less than two.

\* Instruments executed by Government officers and their sureties to secure the due accounting for property received by such officers by virtue of their office, are exempt from stamp duty. (Bombay Government Gazette of 8th September 1881, p. 493.)

4. Heads of offices under whom any officer required to furnish security is serving, will be held responsible for seeing that the necessary security is duly furnished, and that it is good and sufficient both at the time it is first furnished and afterwards, until such time as the officer leaves the office or is transferred to an appointment in which security is not required.

Duties of heads of offices in respect of securities.

For this purpose heads of offices shall carefully scrutinize the security and satisfy themselves as to its sufficiency both when it is first offered and also once a year after it has been accepted, and if they deem it insufficient shall require the officer concerned to furnish additional or fresh security.

Care must be taken that no one person's security is accepted in behalf of a disproportionately large number of officers, whether such officers belong to the same office or department or not.

5. The Collector, after obtaining similar returns from all heads of offices subordinate to him, shall submit annually to the Commissioner, on or before the 30th June, a statement, in the form of Appendix A., showing the results of inquiries as to the sufficiency of the security of each officer in his district required by Rule 2 to furnish security.

Annual statements to be submitted to Commissioners of sufficiency of securities.

6. In the event of any surety being proceeded against under section 187 of the Land Revenue Code, for recovery of the amount, or of any portion of the amount, for which he has become liable, a report shall be submitted to the Commissioner before the sale of any property of such surety is commenced.

### III.—DISPOSAL OF LAND, &C., THE PROPERTY OF GOVERNMENT. [Sections 37, 62 and 214 (i).]

7. Land and all rights in or over the same or appertaining thereto, which are the property of Government, may be disposed of by the Collector in any manner authorized by the following Rules, but not otherwise, except with the previous express sanction of Government.

#### (1) *Transfer of land to Railway Companies or to State Railways.*

8. The transfers of land, whether permanently or temporarily, to Railway Companies or to State Railways shall be regulated by the orders of the Government of India and of the Governor of Bombay in Council from time to time issued in this behalf.\*

#### (2) *Alienations.*

9. No land may be sold revenue-free in perpetuity without the previous sanction of the Government of India, excepting, subject to the pre-

\* The rules and orders relating to acquisition of land for Railways are given in Part II. of this compilation.

vious sanction of the Governor of Bombay in Council, small plots of unoccupied waste land not exceeding ten acres in extent as may be required for buildings or gardens; and, except as is otherwise provided in these Rules, no land of any description may be sold revenue-free for a term without the sanction of the Governor of Bombay in Council.\*

10. Revenue-free grants may be made by the Collector, with the previous sanction of the Commissioner, of land not exceeding in each instance a quarter of an acre in area for the purposes of religious or charitable edifices or institutions, but exemption from assessment shall only be granted for sufficient reasons and not invariably as a matter of course. Land in the neighbourhood of railway-stations shall only be granted revenue-free for dharmshálas, if such dharmshálas, when erected, are to be in the charge of the Local Fund Committee.

11. In order to provide against abuse of any grant made under the preceding Rule, a sanad, in one of the forms prescribed in Appendix B., shall be issued to the grantee by the Collector. If a revenue-free grant is made with the sanction of Government for any purpose not mentioned in the preceding Rule, the form of sanad to be issued by the Collector will be specially prescribed by Government.

Every sanad issued under this Rule shall be registered in the Register prescribed by Rule 57.

The Collector and all revenue officers subordinate to him shall exercise due vigilance to prevent the terms of such sanads being either exceeded or evaded.

12. No revenue-free grant of land and no right in, or over, or appertaining to, any land belonging to Government, may be made to or exercised by a Municipality or a Local Fund Committee without the previous sanction of Government. When any such transfer or exercise of right is sanctioned, it will be made subject to such conditions as Government shall think fit in each case to prescribe.

But nothing in this Rule shall be deemed to prevent the grant of occupancies to Municipalities or Local Fund Committees on the same terms as are applicable to such grants to other persons.

13. Public spaces within municipal limits vest, under section 17, clause (f) of the Bombay District Municipal Act, in the Municipality. But such spaces must be carefully distinguished from building-sites and open pieces of ground which have not

\* See Appendix K, containing Government Resolution on alienation of Government land.

been dedicated to the public, and which, unless they have been already transferred to the Municipality, still vest in Government.

For instance, in an irregular street or road of varying width, small pieces of ground between the houses and the roadway should be recognized as municipal property, but not separate building-sites between the houses, even though they may be unenclosed.

When the right to any piece of ground is in dispute between a Municipality and the Government, the Collector shall endeavour to decide the dispute in accordance with the foregoing principles. If the Collector is in doubt, or if the Municipality does not accept his decision, the case shall be referred through the Commissioner for the orders of Government.

14. The right of Government to mines and mineral products in all unalienated land having been expressly reserved by section 69 of the Land Revenue Code, the same reservation should be made in every alienation that may hereafter be made in the following terms, or in terms to the same effect (namely):

“This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products, and of full liberty of access for the purpose of working and searching for the same with all reasonable conveniences.”\*

### (3) Grant of Occupancies.

15. Occupancies are of two classes, viz., (a) occupancies of land to which a survey settlement has been extended, and (b) occupancies of land to which a survey settlement has not been extended. The Rules concerning each of these classes are given below separately, but are followed by some (c) general Rules applicable to both: †

\* See Appendix L. for correspondence on the subject of reservation of mines and minerals.

† 1. It was not the intention of the Legislature to interfere with the right of an Inámdár to give out unoccupied land in his village or holding for cultivation, or to accept the relinquishment of the same from the occupant, or to exercise the power referred to in section 71 of the Land Revenue Code. (G. R. 5730 of 1st Oct. 1881.) See also notes to Rules 32 and 74 of these Rules.

2. There is no objection to the powers contemplated in clauses (a) and (b) of section 88 of the Revenue Code being conferred upon the inámdár at once, but none of the powers mentioned in clauses (c) to (f) of that section can be conferred until a survey settlement has been extended to his village under section 216 of the Code (*vide* the proviso to section 88).

The first step, if the inámdár is to be invested with any powers under clauses (c) to (f), is for Government, under section 216 of the Code, to authorize the extension to the inámdár's village (by notification in the form given in the margin) of the provisions of Chapters VIII. to X. of the Code which he may desire to have so extended, or of such of them as Government think fit to extend. Section 112 must, of necessity, be amongst the number of the sections to be so extend

*Form.*  
“In exercise of the power conferred by Section 216 of the Bombay Land Revenue Code, 1879, the Governor in Council is pleased to authorize the extension of the provisions of Sections of the said Code to the village of in the taluka of the district. By order, &c.”

the Code which he may desire to have so extended, or of such of them as Government think fit to extend. Section 112 must, of necessity, be amongst the number of the sections to be so extend

(a) *Land to which a Survey Settlement has been extended.*

16. The occupancy of any unoccupied survey number not assigned for special purposes may, at the Collector's discretion, be granted to such person as the Collector deems fit either upon payment of a price fixed by the Collector, or without charge, or be put up to public auction and sold, subject to his confirmation, to the highest bidder.

Occupancy of survey numbers how to be disposed of.

When the final bid at any such auction is for a sum not exceeding Rs. 50, the power of confirming the sale may be delegated by the Collector, in his discretion, under section 12 of the Land Revenue Code, to the Mámlatdár.

17. If the survey number is to be appropriated for purposes of agriculture, the Collector shall not annex any special condition to the occupancy without the previous sanction of Government. In any other case the Collector shall annex such conditions thereto as may be directed by Government, or, in the absence of any order of Government, may annex such conditions thereto as he shall think fit, subject to the control of the Commissioner.

18. If the survey number has not already been assessed, it shall be assessed by the Collector (after reference to the Survey Department, if survey operations are still in progress in the district,) at the rates placed on similar soils in the same or neighbouring villages; and the assessment so fixed shall hold good pending the period for which the current survey settlement for the village in which the land is situated has been guaranteed, and shall be liable thereafter to revision at every general survey settlement of the said village.

19. If it shall appear that the bringing of any survey number under cultivation will be attended with large expense, or if for other special reasons it shall seem desirable,

When survey numbers may be given at reduced assessment.

ed, when a survey settlement "made, approved and confirmed" under the authority of the Governor in Council, is already in force in the village. And when the existing assessments have not yet been declared by Government to be fixed for a term of years, sections 102 and 103 must of necessity also be included, in order that Government may have power at once to declare them to be so fixed and that the survey settlement may be formally introduced.

When the above notification has been issued, and when, if necessary, an order has been issued under section 102 and proceedings have been taken under section 103, the requirements of the proviso to section 88 will have been satisfied.

The powers which Government may then deem it fit to confer upon the inámdár or upon any agent of his may be given, not by notification, but by a commission in the form of Schedule F. of the Code. If powers are conferred under clauses (a) and (b) of section 88 of the Code at once, without waiting for a survey settlement to be extended to the village under section 216, they, too, must be given by a commission. (G. R. 1338 of 8th March 1881.)

it shall be competent to the Collector, with the previous sanction of the Commissioner, to give the number revenue-free or at a reduced assessment for a certain term, or revenue-free for a certain term and at a reduced assessment for a further term, and to annex such special conditions to the occupancy as the outlay or other reasons aforesaid may seem to him to warrant: Provided always that, on the expiry of the term or terms so agreed upon, the land shall be liable to full assessment under the rules then in force for lands to which a survey settlement has been extended.

20. Except under the provisions of the last preceding Rule, or, in places in which special rules for the encouragement of the cultivation of waste lands may be sanctioned by Government, under the provisions of such rules, no survey number on which the assessment has been fixed is to be let for less than the amount of such assessment, in consequence of its having been long waste or for any other reason whatever.

(b) *Land to which a Survey Settlement has not been extended.*

21. The reclamation of salt land or land occasionally overflowed by salt water should be encouraged whenever there is a reasonable prospect of success, and the occupancy of such land may be granted by the Collector, subject to the confirmation of the Commissioner, on the following maximum terms, and with such modifications in particular cases as may be deemed fit:—

- (1) no revenue to be charged for the first ten years;
- (2) revenue at the rate of four annas per acre to be levied for the next twenty years on the whole area granted, whether reclaimed or not;
- (3) at the end of thirty years the land to be assessed to the land revenue and to be continued under the rules then in force for land to which a survey settlement has been extended;
- (4) any portion of the land appropriated for public roads to be exempt from revenue;
- (5) if half the area is not reclaimed at the end of five years, and the whole at the end of ten years, or if the reclamation is not carried on with due diligence within one year, the grant to be cancelled, but may be re-granted at the discretion of the Collector.

22. The occupancy of land in the beds of rivers used for growing melons shall be sold annually by auction to the highest bidder for the term of one year or such further period as the Collector thinks fit, the bidders being informed that

under Rule 53 such land will not be held liable for land revenue.

23. The occupancy of building-sites shall ordinarily be sold by auction to the highest bidder whenever the Collector shall be of opinion that there is a demand for such sites; but the Collector may, in his discretion, dispose of the occupancies of such sites by private arrangement, either upon payment of a price fixed by him, or without charge, as he shall deem fit.

24. Auctions held under the last preceding Rule shall ordinarily be conducted in the town or village in which the land of which the occupancy is to be disposed of is situated, and the power of confirming the sales shall ordinarily be delegated by the Collector, under section 12 of the Land Revenue Code, to the Mámílatdár or Mahálkari, but on these points the Collector may in special cases give such directions as he shall deem fit.

25. Occupancies of building-sites shall ordinarily be disposed of for ninety-nine years, but subject to an annual ground-rent, the amount of which should be regulated by the value of the site, provided that—

- (1) when, as in the case of building-sites at hill-stations, Government have sanctioned special rules, such rules shall be followed;
- (2) the occupancy of land near a railway-station or in any situation where it is likely to become valuable or to be required for any public purpose, shall not be disposed of for long periods; and the occupancy of land near a railway-station shall not be disposed of without the previous sanction of Government, nor while the line is under construction without first consulting the railway authorities;
- (3) the occupancy of land of the nature described in the last clause or of land in towns and other places of considerable size or of increasing importance shall be disposed of subject to such conditions as to the style and size of the buildings to be erected thereupon as Government shall in any case direct.

26. When the occupancy of land, such as is described in clauses (2) and (3) of the last preceding Rule is to be disposed of, the land should in the first instance be marked out in convenient lots and mapped in such a manner that persons desirous of becoming occupants may clearly know what plots are available.

Due provision should be made in the plans for roads and approaches and access of air and light, and careful regard should be had to sanitary requirements.

27. Whenever a new village-site is established in lieu of a former one, which it is determined for any reason to abandon, the new site shall be carefully marked out and mapped in the manner prescribed in the last preceding section, and an agreement shall be taken, in the form of Appendix C., from each registered occupant previous to his being permitted, under section 60 of the Land Revenue Code, to enter upon occupation of any lot.

When an entirely new village-site is established, or an addition is made to an existing site, the same provisions shall be observed for demarcating such new or additional site, but the disposal of the lots therein will be made under the rules ordinarily applicable to the disposal of building-sites.

28. In every case of the disposal of a building-site the occupancy only and not full proprietary right in the soil is to be granted.

29. The occupancy of land to which none of the foregoing Rules is applicable, and concerning which no special orders have been passed by Government, shall be disposed of in such manner, for such period and subject to such special conditions, if any, as the Collector, subject to the control of the Commissioner, shall deem fit.

(c) *General Rules applicable to all Occupancies.*

30. Whenever an occupancy is sold by public auction, an upset-price shall, if the Collector thinks fit, be placed thereon in order to guard the revenue against loss and to prevent applications being made for such occupancies when they are not really wanted.

31. Whenever the occupancy of land is granted on special terms, whether as to the amount of assessment or as to the conditions of the tenure, a written lease shall be executed by the Collector clearly setting forth the terms of the grant.

Every such lease shall be in a form sanctioned by Government, and, if no suitable form has been already so sanctioned, reference shall be made and a sanctioned form obtained before the lease is executed.

A duplicate shall be kept of every lease executed under this Rule.

32. In every case in which a lease is not executed under the last preceding Rule, an agreement, in the form of Appendix D., shall be taken from the person who is to become the registered oc-



cupant, and every such agreement shall be endorsed by two respectable witnesses and by the patel and village accountant of the village in which the land to which it relates is situate, to the effect prescribed below the said form; and the Mámíatdár or Mahálkari who takes the said agreements will be held responsible for exercising due care in ascertaining the identity of the persons signing the same, and their fitness to be accepted as occupants responsible for the payment of land revenue, notwithstanding that the agreements have been duly endorsed as hereinbefore required: Provided always that no such agreement shall be necessary when an agreement, in the form of Appendix C., is taken under Rule 27.

All agreements taken under this Rule or under Rule 27 shall be kept in separate files in the records of the Mámíatdár or Mahálkari.\*

33. It shall be the duty of every village accountant, if so desired by any occupant in his village or by any person about to become an occupant of land in his village, to prepare any agreement that may be necessary under either Rule 27 or Rule 32 without fee or charge of any kind.

A village accountant who prepares any such agreement shall affix his signature beneath the words "written by" on the lower left-hand corner of such agreement.

34. The permission in writing to be given by a Mámíatdár or Mahálkari under section 60 of the Land Revenue Code to enable an intending occupant to enter upon occupation shall be in the form of Appendix E.

No such permission shall be given until either a lease or an agreement has been duly executed and delivered under either Rule 31 or Rule 32 or under Rule 27, as the case may be.

(4) *Disposal of minor rights.*

35. The produce of trees belonging to Government may be sold by auction annually.

36. The grazing or other produce of all unoccupied land vesting in Government, whether a survey settlement has been extended to such land or not, and whether the same be assessed or not, and of all land especially reserved for grass or for grazing (except land assigned to villages for free pasturage) may be sold by public auction year by year, either field by field or in tracts, and at such time as the Collector shall determine: Provided that the purchaser's rights over such land shall entirely cease on the dates respectively fixed for the several districts and provinces in the following table, unless, under special circumstances, the Collector shall deem it necessary to extend the time so fixed for any period not exceeding one month:—

\* As to alienated villages, see note to Rule 74 of these Rules.

Collectorate.	Waste assessed Dry-crop Land.	Waste assessed Rice Land.	Reserved Kurans and unassessed Waste.
Kaldgi ... ..	31st March ...	31st March ...	1st May.
Sátara ... ..	Do. ...	Do. ...	Do.
Belgaum... ..	Do. ...	1st Decr. ...	Do.
Dhárwár... ..	Do. ...	Do. ...	Do.
Kánara ... ..	Do. ...	1st Octr. ...	Do.
Other Deccan Collecto- rates ... ..	Do. ...	31st March ...	Do.
Konkan Collectorates ...	Do. ...	Do. ...	31st December for cutting, and up to the monsoon for grazing.
Gujarát Collectorates ...	Do. ...	Do. ...	1st May.

37. The Commissioner may, if he thinks fit, sanction the disposal of the grazing or other produce of any land, specified in the last preceding Rule, otherwise than by sale in public auction and for any term not exceeding five years.

38. The Collector may, at his discretion, sell by public auction, or otherwise dispose of the right to remove earth, stone, kankar, sand, muram or any other material

which is the property of Government for such periods in such quantities and on such terms as he thinks fit: Provided that such sale or other disposal be made subject to the privileges conceded by the two next following Rules.

The rate charged by the Collector under this Rule, when the right in question is not put up for sale by public auction, may be either a lump sum, or so much per cubic foot of excavation, or, in the case of a Railway Company requiring land for excavating ballast, so much per mile of the railway-line for which ballast is obtained, or otherwise as the Collector thinks fit.

39. Any person may, within the limits of the village in which he resides, remove earth, stone, kankar, sand, muram or other material from the bed of the sea or from the beds of creeks, rivers and nálas, or from any unassessed waste land not assigned for special purposes, for his own *bonâ fide* domestic or agricultural purposes, without payment of fee, on obtaining the written permission of the Police Patel.

Potters and brick and tile-makers shall be entitled to the same privilege for the *bonâ fide* purposes of their trade as well as for domestic and agricultural purposes; but they must first obtain sanction of the Mámlatdár in all cases where an extensive trade is carried on and where excavation of the soil is likely to destroy valuable buildings or land required for public purposes.

If the Police Patel shall refuse permission when the same is applied for under this Rule, an appeal shall lie to the Mámlatdár. But, in such cases as he shall think fit, the Collector may prohibit the Mámlatdár, or the Police Patel, from giving permission without obtaining his previous sanction.

40. Any person may, with the sanction of the Police Patel, take free of all charge from village tanks as much earth, stone, kankar, sand, muram or other material as he requires, provided that no stones shall be removed that may have fallen in from the banks of built tanks, and that no excavation shall be made within ten cubits of the foot of the embankment of any such tank.

41. The Local Funds, Public Works, and other public Departments and Municipalities may, with the permission of the Collector, and subject to his supervision, remove earth, stone, kankar, sand, muram and any other material from the bed of the sea or from the beds of rivers, creeks, nálas or public tanks, or from any unassessed land, or any unoccupied assessed land not assigned for special purposes, for works of public utility without payment, whether such works be constructed departmentally or by contract.

(5) *Miscellaneous.*

42. Every sale by auction, under these Rules, of land, or of any right in or over the same, or appertaining thereto, shall be conducted, so far as may be, in accordance with sections 165 to 168, both inclusive, and 170 to 180, both inclusive, of the Land Revenue Code.

Sales under these Rules how to be conducted.

IV.—ASSIGNMENT OF LAND FOR SPECIAL PURPOSES. [Section 58.]

43. Burial and burning grounds, spots near villages on which the village cattle stand, and lands for the use of village dhobis and potters should be assigned for these purposes respectively, according to the reasonable requirements of the villagers without charge.\*

Cattle-stands and dhobis' and potters' grounds.

V.—ALLUVION AND DILUVION. [Sections 47 and 214 (i).]

44. When a holding is bounded on any side by the bank or shore of a river, † shifting boundaries creek or nála, or of the sea, † the

\* The phrase "village cattle" does not include the cattle of any roving grazier who may choose to squat for a few months on the public ground of a village. (I. L. R. 2 Bom. 110.)

† Whatever may be the nature of the tenancy, the occupants of the land abutting on the stream, and not the Government, are entitled to the enjoyment and benefit of the water as it flows past. No doubt, all the occupants of land on the banks being equally entitled, each occupant or set of occupants is bound to use his right so as not materially to interfere with an equally beneficial enjoyment of it by the other occupants. An action will lie where the user by any of the occupants of the common right is unreasonable. But Government cannot arbitrarily curtail or interfere with, at any time during the occupancy, the enjoyment of the water by each occupant as it existed at the commencement of his occupancy and which must have constituted a most important consideration in fixing the amount of land assessment which each occupant agreed to pay. (Printed Judgments of 1882, p. 58.)

‡ The right of the public to fish in the sea, whether it and its subjacent soil be or be not vested in the Crown, is common, and is not the subject of property. This right in certain portions of the sea may be regulated by local custom. Members of the public exercising the common right to fish in the sea, are bound to exercise that right in a fair and reasonable manner, and not so as to impede others from doing the same; and conduct which prevents another from a fair exercise of his equal right, if special injury thereby results to him, is actionable. (I. L. R. 2 Bom. 19.)

may enjoy up to such boundaries. holder will be permitted, subject in the case of unalienated holdings to such orders as may be legally passed under Rule 46, to occupy and use the land up to such bank or shore, notwithstanding that its position may shift from time to time.

45. It shall be the duty of the village officers, subject to the orders of the Mám-latdár or Mahálkari and of the Collector or of the Assistant or Deputy Collector in charge of the táluka, to ascertain from time to time and to record the changes caused by alluvion and diluvion in every holding subject to such changes.

Changes in holdings from alluvion and diluvion to be ascertained and recorded.

46. The village officers shall report to the Mám-latdár when the area of any newly formed alluvial land or island, or of any abandoned river-bed, to which the provisions of section 46 or of section 64 of the Land Revenue Code apply, exceeds the limit prescribed in those sections, and the Mám-latdár shall deal with it under the orders of the Collector or Assistant Collector in the manner prescribed in the said sections respectively.

The officer who does the *jamábandi* to give effect to provisions of sections 46 and 64.

Newly-formed alluvial lands and islands, and abandoned river-beds to which the provisions of the said sections do not apply, may be disposed of by the Collector under the rules and orders applicable to unoccupied land belonging to Government.

Land to which sections 46 and 64 do not apply, to be disposed of by the Collector.

47. Claims to decrease of assessment on account of diluvion under section 47 of the Land Revenue Code shall be heard and disposed of by the officer who makes the annual *jamábandi* settlement.

The officer who does the *jamábandi* to dispose of claims under section 47.

In order to provide against undue loss of revenue, care must be taken, whenever such claims are allowed, to trace out and assess the corresponding accretions of alluvial land, if any, in the same or in some other village.\*

VI.—PURPOSES TO WHICH THE APPROPRIATION OF UNALIENATED LAND IS PROHIBITED. [Sections 48 and 214 (c) and (i).]

48. Land included as unarable in a survey number assessed for purposes of agriculture only may ordinarily be brought under cultivation without extra charge by the occupant of such number, or by any one claiming under him, but such cultivation is prohibited in the following cases (viz.) :—

Land occupied by a road or tank, &c., in an occupant's holding, may not be cultivated.

- (a) when the land is occupied by a road or by a tank used for irrigation or for drinking or domestic purposes ;

\*For rules regarding alluvion and diluvion owing to changes in the course of the river Indus, or other waters, in the Province of Sind, see Part XVIII (5) of this Compilation.

- (b) when the land is used as a burial-ground ;  
 (c) when the land has been assigned for the use of the village potters, or other public purposes :

Provided that this prohibition shall not apply in the case of a tank, when such tank is used for irrigation only and waters only land which is in the sole occupation of the occupant, or when the privilege of cultivating the dry bed of the tank has been specially conceded to the occupant.

49. No occupant of land assessed or held for purposes of agriculture only and no person claiming under any such occupant may make any use of the land so as, in the opinion of the Collector, thereby to destroy or materially injure the land for cultivation.

But, provided this Rule be not infringed, the occupant and any person lawfully in possession of any such land may remove earth, stone, kan-kar, sand, muram or any other material of the soil thereof for his own *bond fide* domestic or agricultural purposes without previous permission and without payment of fee.

50. Compounds to bungalows and patches of open ground surrounding houses, not assessed for purposes of agriculture, may not, if the Collector shall on sanitary grounds think fit in any case so to direct, be appropriated to purposes of agriculture, but the grass shall be kept, cut or grazed by cattle.

51. No unalienated land within the site of any city, town, or village may be excavated, without the previous permission, in writing, of the Collector, for any purpose except the laying of foundations for buildings, the sinking of wells and the making of grain-pits. When permission is granted by the Collector to excavate any such land as aforesaid for any purposes other than those above mentioned, such excavation may not be made otherwise than in accordance with such terms as the Collector shall in each case think fit to prescribe.

52. No occupant of any land may suffer such land to be or to become overgrown with prickly-pear or rank grass so as to become dangerous to the health or safety of the neighbourhood.

#### VII.—ASSESSMENT OF LAND REVENUE.

[Sections 52, 100 and 214 (d).]

##### (1) *Unsurveyed Lands.*

53. No assessment shall be placed on land in the beds of rivers used for growing melons. The land revenue chargeable on such land shall

Melon-beds not to be assessed.

be deemed to be included in the price of the occupancy thereof obtained in auction under Rule 22.

(2) *Surveyed Lands.*

54. **Compounds** surrounding bungalows and patches of open ground surrounding houses up to such limit of area as Government may from time to time fix for each district shall be subject, as regards their assessment to the land revenue, to the same rules as are applicable to the land on which the bungalows or houses stand.

*Assessment of compounds, &c.*

55. The following Rules, unless otherwise directed by Government, shall be observed in the conduct of revenue surveys of lands used, or which may be used, for the purposes of agriculture.

*Survey Rules.*

(1) Every separate occupancy recognised in the village accounts shall be separately measured, classed and assessed and defined by boundary-marks, and shall be comprised in a survey number or in a subordinate survey number.

By "subordinate survey number" is meant a portion of survey number bearing a subordinate number and separately demarcated and assessed.

(2) Subject to the provisions of the last preceding Rule the area to be included in the survey number shall be determined under general or special orders to be issued in this behalf by the Survey Commissioner.

(3) All measurements shall be recorded in a book to be kept in such form as shall be prescribed by the Survey Commissioner for each survey. The said books when prepared shall be preserved as a record of the survey.

(4) The original measurements made by the subordinate survey officers employed for the purpose shall be tested by the officers in charge of measuring establishments in such manner and to such extent as the Survey Commissioner shall deem sufficient.

(5) Village maps shall be prepared under the orders of the Survey Commissioner showing each survey number. The positions of the boundary-marks of each survey number shall also be shown on the said maps.

(6) For the purposes of assessments all land shall be classed with respect to its productive qualities. The number of classes and their relative value reckoned in annas shall be fixed under the orders of the Survey Commissioner with reference to the circumstances of the different tracts of country to which the survey extends and to the nature of the cultivation.

(7) Every classer shall keep a field-book and record therein the particulars of his classification of each survey number and subordinate survey.

number and the reason which led him to place it in the particular class to which in his estimation it should be deemed to belong. Such field-books shall be preserved as permanent records of the survey.

(8) A test of the original classification made by the subordinate officers employed for this purpose shall be taken by the officers in charge of classing establishments, in such manner and to such extent as may be directed by the Survey Commissioner. The said test shall be an independent test, that is to say, it shall be made by the testing officer in entire ignorance of the original classer's proceedings or records until it has been completed and its results have been finally determined, when only the original classing valuation and the test valuation shall be compared and their separate results recorded.

(9) When rates of assessment have been sanctioned by Government, the assessment to be imposed on each survey number or subordinate survey number shall be determined according to the relative classification value of the land comprised therein.\*

(10) Matters of detail, not provided for in the foregoing Survey Rules shall be determined in each survey in accordance with such general or special orders as the Survey Commissioner acting under the general control of Government shall from time to time deem fit to issue.

(3) *General.*

56. When unalienated land assessed or held for purposes of agriculture only is subsequently appropriated to any purpose unconnected with agriculture, the assessment upon the land actually so appropriated shall be altered in accordance with the provisions of paragraph two of section 48 of the Land Revenue Code and fixed at the following rates :—

Alteration of assessment when land assessed or held for agricultural purposes is appropriated to non-agricultural purposes.		purposes of agriculture only is subsequently appropriated to any purpose unconnected with agriculture, the assessment upon the land actually so appropriated shall be altered in accordance with the provisions of paragraph two of section 48 of the Land Revenue Code and fixed at the following rates :—	
If the village, town or city in which the land is situate is classed, under			
Rule 66, in Class I	...	Rs. 10	per acre, or ten times the assessment for agricultural purposes, whichever be the greater.
"	"	II ...	Rs. 5 or five times do.
"	"	III ...	Rs. 2 or threetimes do.
"	"	IV ...	Re. 1 or double the assessment.

\*1. A special report for inám villages in tálukas already settled may be dispensed with. The rates sanctioned for adjacent Government villages previously settled may be held applicable to inám villages coming under settlement at any time after the settlement of the mass of the táluks. This order may be deemed sufficient sanction within the meaning of sections 102 and 103 of the Land Revenue Code. (G. R. 6386 of 6th December 1880.)

2. Before the survey rates are introduced in an inámdár's village, an agreement should be taken from the inámdár that he will pay the village officers according to the scale in force in Government villages, in order to ensure the independence of and payment of remuneration to the village officers. (G. B. 7322 of 3rd December 1881.)

If the village, town or city in which the land is situate is classed, under Rule 66, in Class V., no alteration in the assessment shall ordinarily be made.

### VIII.—REGISTER OF ALIENATIONS.

[Section 53.]

57. The Register of Alienations to be kept under section 53 of the Land Revenue Code shall be in the form of Appendix F.

### IX.—DISPOSAL OF FORFEITED HOLDINGS.

[Sections 56 and 214 (e) and (i).]

58. Whenever it shall appear to the Collector that an arrear of land revenue cannot be readily recovered by any of the means provided in Chapter XI. of the Land Revenue Code other than the forfeiture of the holding in respect of which the arrear is due, he shall declare such holding to be forfeited to Government. But care should be taken that such declaration is not made except in cases of necessity.\*

Under special circumstances the forfeiture of holdings under this Rule may be postponed by the Collector for one or more years.

If the holding in respect of which the arrear is due consists of two or more survey numbers, or of two or more portions of land, or estates separately assessed, and the Collector shall be of opinion that the whole amount of such arrear could be realized by the sale of some one or more only of such numbers, portions or estates, he may, in his discretion, restrict the forfeiture to such one or more of the said numbers, portions or estates.

59. The Collector shall cause the land comprised in any forfeited alienated holding to be entered in the records as unoccupied unalienated land, and may dispose of it forthwith, or at any subsequent time, in accordance with the rules and orders in force relating to land of that description: Provided that if the forfeited alienated

\*1. Whenever the land revenue is in arrear, Government is entitled to sell the land and realize its due, whoever is the defaulter. (I. L. R. 5 Bom. 74.)

2. Section 86 of the Land Revenue Code, 1879, expressly provides that the recovery of dues from inferior holders shall be made under the same rules and in the same manner as prescribed in Chapter XI. for the realization of arrears due to the Government. An exception only is made in the case of section 137, in which the paramount right of Government to recover its land revenue over

(1) And which obviously could not be made applicable to superior holders. all other claims is recognized, (1) but every other rule in Chapter XI. is applicable. Accordingly, where section 153 provides that the Collector may declare the occupancy in respect of which an arrear of land revenue is due to be forfeited to the Government, so he may declare a holding with which he is dealing under section 86 to have reverted to the superior holder. (G. R. 3089 of 30th May 1881.)



holding was held for service, and the Collector is satisfied that the failure to pay the land revenue due thereupon arose solely from the inability of the watandár to meet the demand, he may deduct from the forfeited holding a portion of land of which the occupancy-price would be likely to equal the amount of the arrear recoverable, and deal with such portion in accordance with the rules and orders aforesaid, and restore the remainder of the forfeited holding to the watandár, or, with the previous permission of Government, may restore the entire forfeited holding to the watandár, and either remit the arrear of land revenue due, or make such arrangements for its being paid in the future as Government shall in each case sanction.

60. Forfeited occupancies shall be put up for sale for recovery of the arrear due except when the Collector thinks—  
Forfeited occupancies how to be disposed of.

(a) that owing to the badness of the times, or to the want of demand for land of the description comprised in the occupancy, or to a combination of the neighbouring landholders, or for any other special cause, there will be no bidders at the sale, or that the highest amount bid will be considerably below the upset price of the occupancy; or,

(b) that the land comprised in the occupancy is likely to be required either immediately, or within a short time, for any such purpose as is described in section 38 of the Land Revenue Code.

In any of the above excepted cases the Collector shall either cause the land comprised in the forfeited occupancy to be entered in the records as unoccupied, and direct that it be dealt with under the rules and orders in force relating to land of that description, or take steps for having it at once lawfully assigned for any of the purposes aforesaid as he shall think fit.

61. Every sale of a forfeited occupancy, as such, shall be made subject to the same rules and orders as are applicable to the sale of unoccupied unalienated land, so far as the same are consistent with the provisions of Chapter XI. of the Land Revenue Code; and the provisions of Rules 31 to 33, both inclusive, shall apply to the case of every such sale.  
Rules and orders applicable to sales and purchasers of forfeited occupancies.

62. If at any auction a forfeited occupancy is not sold, the land comprised in such occupancy shall be disposed of in the manner provided in Rule 60.  
Forfeited occupancy which is not sold how to be dealt with.

63. It shall be in the discretion of the Collector to restore any forfeited occupancy at any time on payment of the arrear in respect of which the forfeiture was incurred, together with all costs and charges lawfully due by the defaulter, or, on security being given to his satisfaction for the payment of the said arrear, costs and charges within a reasonable period.  
Restoration of forfeited occupancies.

No forfeited alienated holding shall be restored without the previous sanction of Government.

64. When a holding which has been forfeited for default in payment of the land revenue due thereupon is not sold, the arrear payable by the defaulter shall ordinarily be remitted without having recourse to further compulsory process against him. But it is not intended that the right of recovering arrears from defaulters by other means, notwithstanding that their holdings have been forfeited and disposed of without being sold, should be altogether relinquished; in special cases the Collector may, with the sanction of the Commissioner, enforce that right.

X.—LIMIT OF FINES TO BE LEVIED UNDER SECTION 61.

65. The limit of fine to be levied under section 61 of the Land Revenue Code, when land is unauthorizedly occupied and appropriated to any non-agricultural purpose, shall be double the amount of the fine that would be leviable under section 48 and section 66 of the Land Revenue Code, if the same land being in the lawful occupation of the trespasser had been appropriated by him to the same purpose without the permission of the Collector.\*

XI.—FINES LEVIABLE WHEN UNALIENATED LAND ORIGINALLY APPROPRIATED FOR PURPOSES OF AGRICULTURE IS OTHERWISE APPROPRIATED. [Sections 65 and 66.]

66. For the purpose of determining the amounts of the fines leviable under section 65 of the Land Revenue Code, the Commissioners shall divide the villages, towns and cities in their respective divisions into five classes. As soon as possible after the issue of these Rules,

\*1. Section 61 has no retrospective effect, i. e., its provisions cannot be enforced in respect of any occupation of land which occurred previous to the passing of the Code. But an occupation which had its commencement authorizedly before the passing of the Code may have been continued unauthorizedly since the Code came into force. To such unauthorized occupation, so far as it has continued since the Code came into force, the provisions of paragraphs 2—5 of section 61 are applicable, and inasmuch as such occupation is still unauthorized, the Collector may also proceed against the person in occupation under paragraphs 6 and 7 of that section. (G. R. 3274 of 25th June 1880.)

2. If the land is the building-site only and the building was made prior to the passing of the Land Revenue Code, the unauthorized occupation of the ground was concluded before the Act came in force and cannot be dealt with retrospectively. The possession of the ground by the owner of the building became adverse to Government when the building was erected.

If, on the other hand, the land is used, say for cultivation, every fresh use of it constitutes a case of unauthorized occupation to be dealt with under the law at the time in force. In such a case if the occupier is evicted, any building he may have erected, whether prior to the passing of the Act or subsequently, will be forfeited unless removed by the owner. (G. R. 6067 of 15th October 1881.)

the Commissioners shall publish notifications in the *Bombay Government Gazette*, specifying by name what villages in each district are placed in the first four of the said five classes; the fifth class comprising "all other villages in the taluka" not entered in the first four classes, and which need not be specified by name. The Commissioners may by similar notifications from time to time alter the said classification.

67. In villages, towns and cities included in the first four classes by the said notifications, the fines leviable under section 65 of the Land Revenue Code shall ordinarily be at the following rates :—

Class I.	Rs. 250	per acre	} of the land actually appropriated to any purpose unconnected with agriculture, and at the same rate in proportion for fractions of an acre.
" II.	" 150	"	
" III.	" 100	"	
" IV.	" 50	"	

In villages, towns and cities included in Class V. by the said notifications no fine shall ordinarily be levied.

Notwithstanding anything hereinbefore contained, the Collector may, in his discretion, require the payment of a fine not exceeding the rate prescribed for Class I. in any village, town, or city in any of the other classes in any special case.

68. Notwithstanding anything contained in the last two preceding Rules the amount of fine imposable under section 65 of the Land Revenue Code in respect of lands within certain limits to be from time to time defined by Government by notification in the *Bombay Government Gazette* in the neighbourhood of railway-stations, large towns, military cantonments, and wherever else Government may deem fit, shall be fixed by the Collector, in his discretion, at rates not exceeding Rs. 500 or Rs. 1,000 per acre, as may be directed by Government in the said notification.

69. The fine leviable under section 66 shall be fixed by the Collector at his discretion, but shall not exceed five times the amount imposable by him under section 65 of the Land Revenue Code. For the purposes of this Rule, villages, towns, or cities included in Class V. by the notifications issued under Rule 66 shall be deemed to have been included in Class IV.

70. In such cases as Government deem exceptional or unusual the amount of the fine to be imposed by the Collector, whether under section 65 or 66 of the Land Revenue Code, will be specially fixed by Government at such rate as they deem fit, notwithstanding anything contained in the foregoing Rules.

71. Nothing in Rules 66 to 70, both inclusive, shall be deemed to apply to potters and brick and tile-makers, who employ any material of the soil of the land in their occupancy for the purposes of their trade, or who erect huts or other buildings on their land for the more convenient pursuit of their trade. In the case of such persons no fine shall be levied under section 65 or 66 of the Land Revenue Code.

Potters and brick and tile-makers exempted from last five Rules.

72. Nothing in Rules 66 to 70, both inclusive, shall apply, until further orders, to the districts of Kánara and Ratnágiri.

Rules 66 to 70 not to apply to Kánara and Ratnágiri for the present.

### XII.—APPROPRIATION OF LANDS FOR PROHIBITED PURPOSES OR WITHOUT PERMISSION. [Sections 43, 66 and 214 (i).]

73. When the occupant or any tenant or other person holding under or through him shall appropriate land in his occupation to any purpose prohibited by Rule 43, or unconnected with agriculture, without the permission of the Collector being first obtained, he shall be deemed to have committed a breach of the conditions of his occupancy; and if after reasonable notice he shall fail to restore the land to its original condition, he shall be deemed to have forfeited his right to occupancy of the land, and the Collector may proceed to evict him summarily in the manner provided in section 202 of the Land Revenue Code.

Procedure to be adopted for summary eviction of occupant.

The Collector may remove or cause to be removed any property, moveable or immoveable, belonging to the occupant, standing or existing in or upon the land, and the cost of removal shall be defrayed by the occupant himself or in default by sale of the said property.

### XIII.—RELINQUISHMENT OF OCCUPANCIES.\*

[Sections 74 and 214 (i).]

74. The written notice of relinquishment of an occupancy required by section 74 of the Land Revenue Code to be given to the Mámldár

Form of notice of relinquishment.

\* As regards rájnímas and kabaláyats in alienated villages it is necessary to note that they are given in one of the three following ways:—

- (1) Absolute relinquishment (section 74 of the Land Revenue Code).
- (2) Relinquishment in favour of another person and the agreement executed by that person (section 74 of the Land Revenue Code).
- (3) Agreement executed by a person taking up new land (Rule 32 of these Rules).

As regards (1) and (2)—

- (a) In *wasarved* alienated villages inámdárs should continue to exercise the powers as they have hitherto been doing, section 74 not being applicable to such villages.

or Mahalkari, shall be in one or other of the forms in Appendix G.

75. The written agreement to be entered into by the persons or by the principal of the persons, if any, in whose favour an occupancy is relinquished, shall be in the form of Appendix D.

Form of agreement to be entered into by the transferee, if any.

76. Every notice and every agreement given under the last two Rules shall be endorsed by two respectable witnesses to the effect prescribed below each of the said forms, and the Mamlatdar or Mahalkari who receives any such notice or agreement will be held responsible for exercising due care in ascertaining the identity of the person who has signed the same, notwithstanding that such notice or agreement has been duly endorsed as hereinbefore required.

Endorsement as to identity required below notices and agreements.

77. All notices and all agreements received under Rule 74 or Rule 75 shall be kept in separate files in the records of the Mamlatdar or Mahalkari.

Notices and agreements to be preserved.

78. It shall be the duty of every village accountant if so desired by any occupant in his village or by any person in whose favour land is about to be relinquished by any occupant in his village, to prepare any notice or any agreement that may be necessary under Rule 74 or Rule 75, without fee or charge of any kind.

Village accountants to prepare notices and agreements without charge when so desired.

A village accountant who prepares any such notice or agreement, shall affix his signature beneath the words "written by" on the lower left-hand corner thereof.

#### XIV.—SURVEY-FEES IN TOWNS AND CITIES.

[Section 132.]

79. Towns and cities to the sites of which a survey has been or may hereafter be extended, will be divided by Government, by notification in the *Bombay Government Gazette*, into three classes for the purpose of determining the survey-fees to be levied therein respectively under section 132 of the Land Revenue Code.

Classification of towns and cities for the purposes of section 132.

The towns and cities hereinbelow mentioned, in which Bombay Act IV. of 1863 was in force before the Code became law, shall belong to the following classes :—

(b) In surveyed alienated villages, the inamdars should, as far as possible, under section 83, be invested where necessary with the powers contemplated by section 74.

As regards (3)—

Section 60 does not apply to alienated lands, and the power of the inamdár in respect of such agreement is unrestricted whether in surveyed or unsurveyed villages. (G. R. 959 of 10th February 1882.)

Class I. ...	{	Ahmedabad.
		Surat.
		Broach.
		Karáchi.
		Hyderabad.
		Sukkur.
Class II. ...	{	Ránder.
		Bulsár.
		Dhárwár.
		Hubli.

80. Survey-fees shall be levied at one of the following rates according to the class under which each town or city falls :—

Rates of survey-fees chargeable in each class.

Class I.	Class II.
Rs. a. p.	Rs. a. p.
5 0 0	3 0 0
4 0 0	2 0 0
3 0 0	1 8 0
1 8 0	0 8 0
0 8 0	

81. The rate of survey-fees to be paid by the holder of each tenement in each class shall be fixed by the Collector or, subject to revision by him, by such officer as he may empower in that behalf, on a full consideration of the position, value, rental and area of each holder's tenement and of the labour, time and expense involved in the survey of such tenement: Provided that not more than one survey-fee shall be payable in respect of each separate tenement.

*Explanation.*—"Separate tenement" shall be deemed to include all the area within one ring-fence or in one locality and in the actual possession of one and the same person or family. If any portion of such area is sublet or occupied separately, such portion shall be deemed a "separate tenement."

#### XV.—RECOVERY OF LAND REVENUE.

[Sections 146 and 214 (i).]

82. All payments of land revenue shall be made to the officers of the village in which such revenue is due: Provided that, with the sanction of the Collector, such payments may in special cases be made into the Huzúr or Táluka Treasuries.

83. In the Ratnágiri and Kánara Districts and in the khoti villages of the Kolába District, land revenue payable in respect of lands assessed for purposes of agriculture only shall, until further orders, continue to be paid in such instalments and on such dates as are now usual in those districts and villages respectively.

84. In all districts except Ratnágiri and Kánara and in all the villages of the Kolába District, except the khoti villages, the land revenue

Agriculturists' instalments in other districts.

nue payable in respect of lands assessed for purposes of agriculture only shall be paid in two equal or nearly equal instalments, on the following dates (namely):—

(a) in the Thána and Kolába Districts (excepting the khoti villages of Kolába), the 1st January and the 16th February ;

(b) in other districts—

in villages placed under Rule 85 in Class I., the 10th December and the 10th January ;

in villages placed under the said Rule in Class II., the 10th January and the 10th March ;

in villages placed under the said Rule in Class III., the 10th February and the 10th April :

Provided that—

(1) in districts, or parts of districts where the above dates may be found to be unsuitable, the Collectors may, with the sanction of the Commissioner to whom they are respectively subordinate, fix such other dates as they may deem expedient according to the circumstances of the season and of the villages comprised in them and the character of the crops generally sown ;

(2) when the total amount of assessment is Rs. 4 or under, it shall, if the Collector shall so order, be payable in a lump sum at the date of the first instalment ;

(3) if the person from whom the year's revenue is due so wishes, he may in any case pay the whole amount at once instead of by instalments.

85. For the purposes of clause (b) of the last preceding Rule the Collectors of the districts to which that clause applies, shall, with the sanction of the Commissioner to whom they are respectively subordinate, classify the villages in the said districts into three classes :

Method of classifications under clause (b) of the last Rule.

Class I. shall include *kharif* villages in ghat districts and elsewhere where it is necessary that the revenue be secured specially early.

Class II. shall include *kharif* villages in Gujarát and elsewhere where no such special provision is necessary.

Class III. shall include *rabi* villages generally.

86. Land revenue, to which the provisions of the last three Rules are inapplicable, shall ordinarily be paid in one instalment on such date as the Collector shall think fit in each case to prescribe ; but in special cases the Collector may, in his discretion, allow the payment to be made in two or more instalments on dates which shall be fixed by him.

Instalments of land revenue to which the last three Rules are inapplicable.

87. The notice of demand to be issued under section 152 of the Land Revenue Code shall be in the form of Appendix H.

Form of notice of demand.

The village officers shall be held responsible by the Collector for warning land-holders verbally from time to time of the dates on which their instalments are due and for using their personal influence in securing prompt payment without resort to notices of demand or other compulsory process, and exemplary punishment should be awarded to any village officer who is remiss in the performance of this duty.

83. The village officers shall report to the Mám-latdárs or Maháلكaris to whom they are respectively subordinate the names of the land-holders who, they have reason to believe, will not punctually pay their instalments, in order that the precautionary measures authorized by sections 140 to 145 of the Land Revenue Code may, when necessary, be adopted in due time.\*

#### XVI.—ADMINISTRATION OF SURVEY SETTLEMENTS.

[Section 214 (g).]

##### (1) Notification of Survey Settlement.

89. When a survey settlement shall have received the sanction of Government under section 102 of the Land Revenue Code, a notification shall be published in the district or portion of a district to which the settlement extends, in the form of Appendix J., and the period for which the assessments have been fixed shall be notified in the *Bombay Government Gazette*.

When the settlement is introduced into a portion of a táluka already partially settled, the guarantee will be restricted to the unexpired portion of the period for which the assessments in the first settled portion of the táluka were fixed.

90. In isolated villages to which a survey settlement was extended before the 9th March 1858, the settlements shall be understood to have been fixed for a period of thirty years, unless there is specific evidence that a guarantee for a shorter period was given at the time.

##### (2) Trees.

91. The extent to which the right of Government to trees is generally conceded under paragraph two of section 40 of the Land Revenue Code will be specified in the notification issued under Rule 89. The

\* Distraints should be made by táluka kárkúns, kulkarnis, talátis and patels, provided that they should be executed only by persons able to read and write. In special cases the Collectors and their Assistants may direct the warrant to any person considered competent to execute it. (G. R. 7858 of 23rd December 1881.)



said general concession will ordinarily extend to all trees, except the following (namely):—

- (1) all road-side trees planted by or under the orders of Government;\*
- (2) teak, blackwood, and sandalwood;
- (3) trees, the produce of which has hitherto been disposed of by Government.

Trees in groves, trees round temples or places of encampment declared to be Special reservations. such by the Collector, and trees other than teak, blackwood or sandalwood which for any reason are of special value or utility will be specially reserved at the settlement and entries to that effect made in the settlement records.

The right to trees of any of the above classes which have already been specially assigned to the occupant or purchased by him, or to trees standing in public places, will, of course, not be affected by this Rule or by the notification issued under Rule 89.†

92. Notwithstanding anything contained in the Government may reserve trees not specified in the last Rule. last preceding Rule, Government will specially reserve their rights to all trees, or to trees of other kinds than those therein enumerated, whenever it may be deemed expedient so to do.

93. Of the trees to which the rights of Government are reserved, such numbers or kinds as Government may from time to time direct will be at the disposal of the Forest Department. Lists shall be kept of all occupied numbers, over the trees in which the Forest Department has any control or lien; the clearing of these numbers by the Forest Department shall be arranged in concert with the Collector, and every number when cleared

\* The propriety of laying down a general law concerning road-side trees planted by landholders in their own land was much discussed by the Select Committee on the Revenue Code Bill. That Bill, as introduced, contained a specific provision on the subject (section 107, clause c), but it was much opposed, and it has been omitted from section 42 of the Bill as read a third time and passed on the 15th April 1879.

The only way to prevent such road-side trees being cut down is to apply the provisions of Act X. of 1870 for the acquisition for public purposes either of the trees, or of both, the trees and the land on which they stand. (G. R. 3495 of 3rd July 1879.)

† 1. If trees on the banks of rivers and nálas 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.

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. 649 of 30th January 1882.)

2. See also Additional Order No. 2 of Part IV., Forests, of this compilation.

shall be recorded as exempt from all interference in the future on the part of the Forest Department.

All reserved trees not placed at the disposal of the Forest Department shall be in charge of the Collector who may dispose of the same, or of the produce thereof, in such manner as he may from time to time deem fit.

94. In talukas in which the demarcation of forests has been completed,

In talukas in which forest demarcation is completed, occupancy of numbers may be granted by Collector with offer of jungle and trees therein.

when the right of occupancy of any unoccupied number containing jungle or valuable trees which have not been included in any forest reserve is granted to any person, the Collector may, if he thinks it better to grant the land for cultivation than to keep it for jungle, offer the jungle or such of the trees as he may see fit to the occupant at a valuation to be made by the Collector. If the occupant agrees to purchase the same, the value shall be recovered from him by the Collector and credited to the Forest Department.

95. In talukas in which the demarcation of forest reserves has not been completed,

In talukas in which forest demarcation is not completed, occupancy of numbers containing jungle or valuable trees to be given on certain conditions.

the Collector may, if he thinks fit, consult the Conservator of Forests before the occupancy of any land containing jungle or valuable trees is granted; and if the occupancy of any such land is granted to any person, the provisions of the preceding Rule shall apply: Provided that specified trees of a valuable kind shall not be cut down, and that in no case shall the occupancy be granted if the land is likely to be required for forests.

96. Whenever the occupancy of a survey number is disposed of at any time after

What trees should be disposed of along with an occupancy.

the first introduction of a survey settlement, trees of the kind specified in clause (3) of Rule 91 shall be excluded from reservation, and shall be disposed of along with the occupancy under the provision of paragraph two of section 62 of the Land Revenue Code.

97. Whenever the right to unreserved trees in any survey number is at the

The land and the trees thereupon should vest in the same person.

disposal of Government simultaneously with the occupancy of such number, all such trees shall invariably be disposed of to the same person who acquires the occupancy and not to any other person.

98. When the right of Government to any trees in a survey number has been

When once trees have been cut or disposed of, Government to have no right to after-growth.

once disposed of to the occupant, or when reserved trees have been once cut and removed, whether at or before or at any time after the grant of the occupancy, Government will have

no further claim to trees of the same descriptions which may afterwards grow in the number, or which may spring up from the old roots or stumps during the occupancy of the said occupant.

(3) *Entry of Co-occupants' Names.*

99. On written application being made for this purpose to the Collector or, whilst survey operations are proceeding, to a survey officer, the names of the co-occupants of the registered occupant of any survey number and the share in fractional parts of a rupee of each such co-occupant in the occupancy may be entered in the records along with the name and share of the registered occupant of the number: Provided that no such entry shall—

- (1) affect the liability of the occupants to Government, or amongst themselves, for the land revenue of the number, or
- (2) confer a right to a sub-division of the number below the minimum area fixed under the provisions of section 98 of the Land Revenue Code.

(4) *Inspection, Maintenance, and Repair of Boundary-marks.*

100. On the introduction of a survey settlement into a district the Superintendent of Survey shall furnish the Collector with a map and statements showing the position, size and description of the boundary-marks erected or prescribed by or under the orders of the Survey Department, with a view to his taking measures for their maintenance and repair under section 124 of the Land Revenue Code.

101. The digging of earth close around an earthen boundary-mark for the purpose of repairing it is prohibited. A space of two cubits in breadth all round each such mark is to be left untouched, so as to prevent injury to the mark from water lodging in the cavities from which earth is taken for the repairs.

102. Village officers shall examine all the boundary-marks in their respective villages once a year in November or December, and the village accountant shall record in village form No. 3 (Hope's Forms) the condition in which the boundary-marks are found.

Details of all marks found to be out of repair shall be entered in village form No. 4 (Hope's Forms) by the village accountant, and after the lapse of a sufficient time to allow of the repairs to the marks being completed, a second inspection shall be made of every field entered in this register.

103. Prior to the second inspection, the Collector shall issue a notification under section 122 of the Land Revenue Code requiring landholders to repair their boundary-marks within a period of ten days. The provisions of paragraph two of the said section shall be rigidly enforced in the case of any repairs remaining unexecuted at the time of the second inspection.

Issue of notification by Collector under section 122.

104. A further test-inspection of boundary-marks shall be made annually in each village by a Mámíatdár's kárkún. The inspection shall be made in the presence of the village officers and of such of the landholders as may attend. The results of these inspections shall be recorded in the village form No. 3, in the column provided for the purpose, and in column 15 of village form No. 4 (Hope's Forms).

Test-inspection by Mámíatdár's kárkún.

For the first three years after the first introduction of a survey settlement this test-inspection shall extend to all the boundary-marks of each village. After the first three years the following Rules shall be observed:—

(1) For the purpose of táluka inspection of boundary-marks, the number of fields in each village shall be divided into four equal sections, and the fields comprised in one section shall be inspected by the General Duty Kárkún in each successive year. Thus the whole village will be completely supervised in a period of four years.

(2) The division of the boundary-marks of a village into sections as directed in the preceding Rule shall be made once for all by the Mámíatdár personally with the sanction of the Assistant Collector, who should be supplied with the division lists to enable him to take the necessary tests of the work performed by the Táluka Officers.

(3) Each General Duty Kárkún shall be duly supplied with lists specifying the fields of each village in his charge which he is required to inspect in a particular year.

(4) The inspections by General Duty Kárkúns must be careful and thorough, and the results of their inspections should be noted in village form No. 3 (Hope's Forms) against each field, as indicated in the form.

(5) The General Duty Kárkún should, when the required inspection in a village is over, sign a certificate at foot of village form No. 3 (Hope's Forms) to the following effect:—

“ I hereby certify I have personally examined the boundary-marks of the fields noted by me as examined against each field.”

105. When the necessary repairs have all been completed, the Mámíatdár or Maháikari shall prepare and forward to the Collector, or to the Assistant or Deputy Collector in charge of the

General abstract of Inspection Registers.

táluka, by a date to be specially fixed by the Collector of each district, a general abstract of the Inspection Registers.

106. Mámlatdárs and Maháلكaris and Assistant and Deputy Collectors in charge of tálukas will personally examine the boundary-marks of some of the numbers of several villages in every táluka as soon as possible after the completion of the second inspection required by Rule 102. In the case of tálukas which are in the immediate charge of the Collector, that officer shall mark off several numbers in the village registers for examination by the Daftardár or other high officer of his establishment.

The results of inspections made under this Rule shall be recorded in the same way as in the case of inspections made under Rule 104.

107. The Commissioners shall during their tours take measures to prevent the inspection and examination required by the foregoing Rules becoming a mere form.

#### XVII.—APPEALS. [Section 214 (h).]

108. Every appeal shall be made in the form of a petition addressed to the authority to whom an appeal lies, and shall be drawn up in concise, intelligible and respectful language, and bear the signature or mark of the appellant or of his duly authorized agent.

The petition should give the following particulars:—

- the name, father's name, occupation and place of residence or address of the appellant;
- the name and address of the writer of the petition;
- and, if possible, the date of the order or decision appealed against and the name and designation of the officer who passed it.

The petition should also contain a brief and unexaggerated statement of the facts on which the appellant relies in support of his appeal; and the grounds of the appellant's objection to the order or decision appealed against.

109. Appeals may either be presented to the authority to whom an appeal lies in person, or be forwarded to him by post.

When an appeal is sent by post the postage on the cover containing it must invariably be fully prepaid.

110. Inattention in any material respect to the requirements of either of the last two preceding Rules will render an appeal liable to be rejected without inquiry into its merits.

## XVIII.—PENALTIES. [Section 215.]

111. Breaches of the general Rules hereunder mentioned shall be punishable on conviction before a Magistrate as follows :—

Breaches of the Rules how punishable.

*Clause 1.—(a)* Whoever without due authority shall take, or attempt to take, any produce of any tree belonging to Government;

*(b)* whoever without due authority shall cut down or remove, or attempt to cut down or remove, any jungle or trees belonging to Government or the right to which has not been conceded by Government;

*(c)* whoever without due authority shall remove, or attempt to remove, the grass or any other produce of land belonging to Government;

*(d)* whoever without due authority shall dig or remove, or attempt to dig or remove, any earth, stone, kankar, sand or muram, or any other material from land belonging to Government;

shall be punished with imprisonment of either description which may extend to one month, or with fine which may extend to five hundred rupees.

*Clause 2.—(a)* Whoever shall unlawfully cultivate land of which the cultivation has been prohibited under Rule 43;

*(b)* whoever shall unlawfully destroy or materially injure for cultivation land held for purposes of agriculture only;

*(c)* whoever shall appropriate for purposes of agriculture compounds to bungalows or patches of open ground surrounding houses after such cultivation has been prohibited by the Collector on sanitary grounds;

*(d)* whoever shall, except for the purpose of laying the foundations of buildings, sinking of wells, or making grain-pits, within the site of any village, town or city, excavate, without the previous permission in writing of the Collector, or, when such permission has been granted, shall excavate contrary to any terms prescribed by the Collector;

*(e)* whoever shall suffer his land to be or to become overgrown with prickly-pear or rank grass so as to be dangerous to the health or safety of the neighbourhood;

shall be punished with fine which may extend to five hundred rupees.

*Clause 3.—(a)* Whoever shall dig earth within a space of two cubits of any earthen boundary;

*(b)* whoever shall use land near villages which has been assigned for any of the purposes mentioned in Rule 43 for any other purpose, or shall use for any of such purposes land near villages which has not been so assigned;

shall be punished with a fine which may extend to ten rupees.

*Clause 4.*—Whoever, being a village officer,

(a) shall take or levy any fee for preparing any document or copy or extract of any document which he is bound by any Rule or Order to prepare without charge;

(b) or who shall charge any fee for granting any permission which he is authorized by these Rules to grant but for which no fee can lawfully be charged;

shall be punished with the punishment provided in clause 1 of this Rule.

*Clause 5.*—Whoever, being a village officer,

(a) shall refuse or neglect to prepare any document or copy or extract of any document, or to sign or certify the same, in the manner prescribed by any of the Rules;

(b) or shall neglect to make any report or to perform any duty which he is required by any of these Rules to make or to perform;

(c) or shall neglect to inspect the boundary-marks in his village in the manner and at the time required by these Rules;

shall be punished with the punishment provided in clause 2 of this Rule.

Nothing in this Rule shall prevent any person from being prosecuted under any enactment for any offence punishable under these Rules, or from being liable under any enactment to any other or higher penalty than is provided for such offence by this Rule: Provided that no person shall be punished twice for the same offence.

## APPENDIX A. (See Rule 5.)

Form of Annual Statement showing the results of inquiries made as to the sufficiency of the Security furnished by Revenue Officers in the District of \_\_\_\_\_ of \_\_\_\_\_ 18 .

Consecutive No.	Names and designations of Officers required to give Security.	Amount of Security given.	Nature of Security given.	Names of Sureties, if any, and dates of their Bonds.	Names of new Sureties, if any, substituted for former ones who have died or withdrawn, or whose fitness is considered doubtful.	Amount of Security, if any, for which each Surety is liable on account of other Officers, whether in the same or in any other Department.	Opinion of Head of Office as to sufficiency of present Security.
1	2	3	4	5	6	7	8

## APPENDIX B. (See Rule 11.)

Forms of Sanads for revenue-free grants of land for Religious or Charitable purposes.

FORM No. I.

To A.B.

WHEREAS Government have been pleased to grant to you, A.B., the below-mentioned piece of land situated in the village of \_\_\_\_\_ in the \_\_\_\_\_ taluka of the \_\_\_\_\_ district, for the

purpose of\* \_\_\_\_\_ revenue-free (namely)—  
 All that piece of land bounded on the North by \_\_\_\_\_, on the South by \_\_\_\_\_, on the East by \_\_\_\_\_, and on the West by \_\_\_\_\_, and measuring from North to South \_\_\_\_\_, and from East to West \_\_\_\_\_, comprising \_\_\_\_\_ square in superficial area, and numbered No. \_\_\_\_\_ in the \_\_\_\_\_

It is hereby declared that the said land shall be continued for ever free of all claim on the part of Government for rent or land revenue to whoever shall from time to time be the lawful holder or manager of the said \_\_\_\_\_ on the condition that neither the said land nor any building erected thereupon shall at any time, without the express consent of Government, be diverted either temporarily or permanently to any other than the aforesaid purpose, and that no change or modification shall be made of the object for which the said \_\_\_\_\_ is founded, and that in the event of any such unauthorized diversion, change, or modification being made, it shall be lawful for Government, on causing six months' previous notice in writing to be given to the said holder or manager, to take either of the two following courses (namely), either—

(1) to require that the said land be vacated and delivered up to Government free of all claims or incumbrances of any person whatsoever, or

(2) to impose thenceforward such annual rent for the occupation of the said land until the same is vacated and delivered over to Government as to Government shall seem fit, which said rent shall be recoverable under the law at the time in force for recovering an arrear of land revenue.

This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products and of full liberty of access for the purpose of working and searching for the same, with all reasonable conveniences.

\* The purpose and the extent of the public interest in it should be clearly set forth, as, for instance, "building a dharmshala for the free and unrestricted use of all classes of the community."



This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor in Council of Bombay, by the Collector of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_



(Signed)

Collector.

FORM No. II.

To

A. B.

WHEREAS, in consideration of your having built (or undertaken to build, as the case may be,) a temple, with a dharmshala annexed thereto, for the use of the Hindu community (or otherwise as the case may be) on the piece of land hereinafter mentioned, which is your property (or which has been granted to you by Government for this purpose, as the case may be,) Government have been pleased, at your request, to exempt the said piece of land from liability to rent or land revenue.

It is hereby declared that so long as the said piece of land continues to be devoted to the purpose aforesaid, it shall be continued free of all claim on the part of Government for rent or land revenue to whoever shall from time to time be the lawful holder or manager of the said temple and its appurtenances (or otherwise as the case may be).

The piece of land herein referred to is situated in the village of \_\_\_\_\_ in the \_\_\_\_\_ taluka of \_\_\_\_\_ district, and is bounded on the North by \_\_\_\_\_, on the South by \_\_\_\_\_, on the East by \_\_\_\_\_, and on the West by \_\_\_\_\_, and comprises about \_\_\_\_\_ square \_\_\_\_\_ in superficial area, be the same more or less, and is numbered No. \_\_\_\_\_ in the \_\_\_\_\_

\* This grant is made subject to the reservation of the right of the Secretary of State for India in Council to all mines and mineral products, and of full liberty of access for the purpose of working and searching for the same with all reasonable conveniences.

This sanad is executed on behalf of the Secretary of State for India in Council by order of His Excellency the Governor in Council of Bombay, by the Collector of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_



(Signed)

Collector.

APPENDIX C. (See Rule 27.)

Form of Agreement for exchange to be executed by villagers removing to a new village-site.

† AGREEMENT executed the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ by A. B., resident of \_\_\_\_\_ in the \_\_\_\_\_ Taluka of the \_\_\_\_\_ District.

WHEREAS Government have been pleased to sanction a change being made in the position of the site of the village of \_\_\_\_\_ in the Registration Sub-District of \_\_\_\_\_ of the \_\_\_\_\_ District, and in pursuance of such sanction the following plot of ground has been allotted to me in the new site in exchange for the ground held by me in the old site, namely, the piece of land bounded as follows, that is to say, on the North by \_\_\_\_\_, on the South by \_\_\_\_\_, on the East by \_\_\_\_\_, on the West by \_\_\_\_\_, measuring \_\_\_\_\_ in length from North to South, and \_\_\_\_\_ in width from East to West, and comprising about \_\_\_\_\_ square \_\_\_\_\_ in superficial area and numbered No. \_\_\_\_\_ in the \_\_\_\_\_

I do hereby agree, in consideration of the allotment to me of the new piece of land aforesaid, as follows (namely):—

(1.) That all my right, title and interest in any land whatsoever, situate within the old site of the said village, shall be deemed to be, and is hereby, surrendered to

\* This clause is to be inserted only when the land is being granted under the sanad.  
 † The proper stamp-duty for this agreement is four annas. See Act I. of 1879, Schedule 1, Art. 5 (b).

Government, together with the trees standing thereon, and all rights over or other benefits arising out of, or enjoyed by me in respect of the said land;

(2.) That I shall hold the piece of land aforesaid in the new site from the date of this agreement as the occupant of the same, free of land revenue for such period as Government may be pleased to continue such exemption, but subject nevertheless to the payment of land revenue of such amount, if any, as may hereafter at any time, or from time to time, be lawfully imposed under the orders of Government thereupon.

In witness whereof I have hereto set my hand the day and year aforesaid.

Written by

(Signed) A. B.

Signed and delivered by \_\_\_\_\_ in our presence

#### APPENDIX D. (See Rules 32 and 75.)

*Form of agreement to be passed by persons intending to become registered occupants.*

##### \*AGREEMENT.

To the Mámlatdár (or Maháikari) of

I, A. B., inhabitant of \_\_\_\_\_ in the \_\_\_\_\_ District, hereby accept, on behalf of myself and of my co-occupants, present and future, the occupancy of the land comprised in Survey No. \_\_\_\_\_ (or of the building-site hereinbelow described, or otherwise as the case may be,) in the village of \_\_\_\_\_ in the \_\_\_\_\_ Táluka of the \_\_\_\_\_ District, and I pray that my name be entered in the Government records as the registered occupant of the said land.

The said occupancy has been granted to me subject to the provisions of the Bombay Land Revenue Code, 1879, and of the rules in force thereunder, in perpetuity (or for the period of, as the case may be,) from the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_; and I undertake to pay the land revenue from time to time lawfully due in respect of the said occupancy (or I undertake, whenever Government shall see fit to discontinue the exemption of the said land from payment of land revenue, to pay such revenue as may be lawfully imposed, under the orders of Government, thereupon, or otherwise as the case may be).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ at \_\_\_\_\_

Written by

(Signed) A. B.

We declare that A. B., who has signed this agreement, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) C. D.

E. F.

‡ We declare that to the best of our knowledge and from the best information we have been able, after careful inquiry, to obtain, the person who has passed this agreement is a fit person to be accepted by Government as responsible for the punctual payment of the land revenue from time to time due on the above land.

(Signed) G. H., Patel.

J. J., Village Accountant.

#### APPENDIX E. (See Rule 34.)

*Form of written permission to occupy land to be given by a Mámlatdár or Maháikari under Section 60.*

Permission is hereby given to A. B., inhabitant of \_\_\_\_\_ in the \_\_\_\_\_ Táluka of the \_\_\_\_\_ District to occupy \_\_\_\_\_ Survey No. \_\_\_\_\_ (or the building-site hereinbelow described, or otherwise as the case may be,) in the village of \_\_\_\_\_ in the \_\_\_\_\_ Táluka of the \_\_\_\_\_ District.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_ at \_\_\_\_\_

(Signed)

Mámlatdár (or Maháikari).

\* This agreement is exempt from stamp-duty under the Government of India's Notification No. 2327 of 4th August 1880. (Bombay Government Gazette for 1880, p. 706.)

† When an occupancy is sold for a fixed period free of land revenue, the agreement should end here, and the second endorsement may be omitted.

‡ This endorsement is to be required only when the agreement is given under Rule 32.

APPENDIX F. (See Rule 57.)

Form of Register of Alienations.

Register of Alienated Villages and Lands in the District kept under Section 53 of the Bombay Land Revenue Code (Bombay Act V. of 1879).

Serial Number.	Number of Village.	Number of the present Aliance.	(1) Class of Alienation.	(2) Particulars of the Sanad.						(3) Number of Form of the Sanad annexed to the Register.	Duration of tenure, i.e., whether continuous permanently or hereditarily for more lives than one, or for life only or for what period.	Particulars of the villages or lands alienated.				(5) Land Revenue payable to Government.			Land Revenue alienated.	REMARKS.
				Number.	Date, month and year.	Name and Office of the Officer signing it.	Name of the Holder.	Name of the Taluka and District in which it is entered.	Name of the Taluka and District in which it is entered.			Entire village.	If part only of the village, the Survey Number.	Area.	Survey Assessment.	(4) Amount of old <i>judis</i> or <i>salams</i> .	Rate.	Amount.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21

Notes:—

- (1) This column should show whether the sanad is for a political or other *saranjam*, or a personal *inam*, or a *devasthan*, or a *watan inam* or a district officer's *watan*, or a village servant's *watan*, and in the latter case whether the *watan* is (a) useful to the village community, or (b) useful to Government. If the alienation does not come under any of these classes, it should be appropriately described.
- (2) In those cases in which no sanad has been granted, the number and date of the decision confirming or continuing the alienation should be written across columns 5—10.
- (3) To avoid the necessity of copying out a sanad *in extenso* in each entry, a sample form of every kind of sanad registered should be annexed under the Collector's signature to the Register, and numbered, and the number of the form should be entered in column 10 of each entry.
- (4) If the amount of *judis* actually paid has been less than the maximum amount fixed by the *Inam* Commission or otherwise, the former amount should be entered in column 16, and the latter, with an explanatory note, in column 21.
- (5) When columns 16—18 are inapplicable, the amount of land revenue payable should be shown in column 19 only.

APPENDIX G. (See Rule 74.)

Form of Notice\* of Relinquishment.

No. 1. † Absolute Relinquishment.

To the *Mámlatdár* (or *Mahalkari*) of

I, *A. B.*, inhabitant of \_\_\_\_\_ in the \_\_\_\_\_ *táluka* of the \_\_\_\_\_ district, the registered occupant of Survey No. \_\_\_\_\_ the building-site hereinbelow described (or otherwise as the case may be), in the village of \_\_\_\_\_ in the \_\_\_\_\_ *táluka* of the \_\_\_\_\_ district, hereby give notice, under section 74 of the Bombay Land Revenue Code, 1879, that it is my intention to relinquish absolutely the occupancy of the said Survey No. (or building-site, &c.,) at the end of the current year.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ at \_\_\_\_\_  
Written by \_\_\_\_\_

(Signed) *A. B.*

\* The Court-fee payable on these notices has been remitted. (Vide Government of India's Notification No. 3421 in the Bombay Government Gazette of 28th December 1876, page 1230.)

† These notices must be given before the 31st March, or such other date as Government prescribe, under section 74, for each district.

We declare that *A. B.*, who has signed this notice, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *E. F.*  
*G. H.*

*No. 2. Relinquishment in favour of some other person.*

To the Mámlatdár (or Mahálkari) of

*I, A. B.*, inhabitant of \_\_\_\_\_ in the \_\_\_\_\_ táluka of the \_\_\_\_\_ district, the registered occupant of Survey No. \_\_\_\_\_ (or of the building-site hereinbelow described, or otherwise as the case may be,) in the village of \_\_\_\_\_ in the \_\_\_\_\_ táluka of the \_\_\_\_\_ district, hereby give notice, under section 74 of the Bombay Land Revenue Code, 1879, that I have relinquished the occupancy of the said Survey No. (or building-site, &c.) in favour of *C. D.*, inhabitant of \_\_\_\_\_ in the \_\_\_\_\_ táluka of the \_\_\_\_\_ district; and I request that the necessary mutation of names be made in the records.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, at \_\_\_\_\_

Written by \_\_\_\_\_

(Signed) *A. B.*

We declare that *A. B.*, who has signed this notice, is, to our personal knowledge, the person he represents himself to be, and that he has affixed his signature hereto in our presence.

(Signed) *E. F.*  
*G. H.*

APPENDIX H. (See Rule 87.)

*Notice to a Defaulter.*

To *A. B.*, residing at \_\_\_\_\_

You are hereby required to take notice that the sum of Rs. \_\_\_\_\_ a. p. due by you on the \_\_\_\_\_ as the (\* instalment of) land revenue on (Sub-No. \_\_\_\_\_ of) Survey No. \_\_\_\_\_ (or otherwise as the case may be) in the village of \_\_\_\_\_ in the \_\_\_\_\_ táluka of \_\_\_\_\_ in the \_\_\_\_\_ district, has not been paid, and that, unless it is paid within ten days from the date of this notice, together with the sum of \_\_\_\_\_ annas, being the fee chargeable for this notice, compulsory proceedings will be taken according to law for the recovery of the whole of the revenue still due by you for the current year on the said land.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Signed) Mámlatdár (or Mahálkari).

APPENDIX J. (See Rule 89.)

*Notification determining the period of Settlement.*

The Governor of Bombay in Council having sanctioned the Survey Settlement introduced by the Superintendent of Revenue Survey and Assessment, under the provisions of the Bombay Land Revenue Code, 1879, into the \_\_\_\_\_ táluka of the \_\_\_\_\_ district, the following notification is published for the information of the landholders and village officers in the said táluka :—

1. The survey rates as fixed under this settlement will remain in force without increase for a period of \_\_\_\_\_ years, commencing from † \_\_\_\_\_ and extending to † \_\_\_\_\_  
*Duration of settlement.*
2. But in the case of land which may hereafter be brought under irrigation by the use of water, the right to which vests in Government, or which is supplied from works constructed and maintained by, or at the instance of, Government, or of land which may be supplied with an increased amount of water from works constructed, repaired, or improved at the cost of the State, Government reserves to itself the right of imposing an extra cess or rate, or of increasing any existing rate, for the use of water supplied or increased by such means, whether under the provisions of the Bombay Irrigation Act, 1879, or otherwise. ‡
3. In addition to the fixed assessment, a cess not exceeding such rate as may be allowed by law will be levied under the Bombay Local Funds Act, 1869, or other law for the time being in force, for the purpose of providing funds for expenditure on objects of local public utility and improvement.  
*Local Funds.*
4. The Government rights to trees standing in lands which are now occupied, is hereby conceded to the occupants thereof, subject to the general exceptions entered in the margin§ and the special exceptions recorded in the settlement records.  
*Right to trees.*

\* "First" or "second," as the case may be.

† Here enter the Fasli and A.D.

‡ Should any other special cess, for the maintenance of irrigation works, such as the pát-fála in Khándesh, be levied, it should be here specified.

§ The names of reserved trees are to be specified in the margin.

## APPENDIX K.

## REVENUE DEPARTMENT.

The following Resolution by the Government of India is published in supersession of the Rules notified in the *Bombay Government Gazette*, dated 21st September 1871, page 1014:—

“ No. 117.

*Extract from the Proceedings of the Government of India in the Department of Agriculture, Revenue and Commerce, dated Fort William, the 6th February 1872.*

[LAND REVENUE AND SETTLEMENTS.]

READ again—

Financial Department Resolution No. 557, dated 25th January 1870.

Home Department Circular Resolution No. 229-39, dated 27th April 1870.

Financial Department Resolution No. 1452, dated 23rd June 1870.

Home Department Circular No. 427-36, dated 4th July 1870.

## RESOLUTION.

In the Resolutions quoted above it was ruled that the sanction of the Government of India should be obtained to the alienation of all Government land, whether actually paying revenue or not, except grants of waste land made under the approved rules, and that Government land, whether paying revenue or not, should not be parted with save under the rules applicable to the expenditure of public money. It was also laid down that if the sale of small plots of escheated land for the benefit of local funds has not been duly sanctioned, it must be considered subject to the above restrictions.

2. Several local Governments and Administrations having represented the inconveniences arising from a strict adherence to these orders, the Governor General in Council has been pleased to modify them as follows:—

3. Lands to be disposed of will necessarily divide themselves into two classes:

*First*—Those which are the property of the State;

*Second*—Those which, under competent authority, have been constituted the property of a municipality or other local body.

4. Lands of the first class may be disposed of in various ways—

*First*—By sale at full market value;

*Second*—By sale on favourable terms—  
to a public body or association, or to an individual, for a public purpose;

*Third*—By gift or grant to—

(a) a public body or association, or to an individual, for a public purpose;

(b) private individuals in remuneration for public services to be performed;

(c) private individuals for their private benefit, without reference to future services.

5. As regards lands falling into the second of the above classes, which have been, under a competent authority, constituted the property of a local body, the Government of India will exercise no interference. It will be the duty of local Governments and Administrations to satisfy themselves that the lands in question have been transferred under proper authority, and this having been ascertained, the sanction of the local Government or Administration will be sufficient for the disposal of the lands.

6. As regards lands, the property of the State, such of them as are governed by the rules for the grant of waste lands, will continue to be dealt with under the rules on this subject in force for the time being.

7. As regards lands, the property of the State, other than waste lands, which are sold for full value, no reference to the Government of India need be made where the full value does not exceed Rs. 10,000. Up to this amount the sanction of the local Government, or Administration will in all cases be sufficient. The amount realized by the sale of the land should invariably be credited to the general revenues, and the sale should be duly noticed in the proceedings of the local Government or Administration.

8. As regards the sale of lands on favourable terms, for a public purpose, in no case should the recipient pay less than half the full market value of the lands granted; and whenever such full value exceeds the sum of Rs. 1,000, the sanction of the Government of India should be previously obtained. The amount realized by the sale should in all cases be credited to the general revenues, and the sale should be noticed in the proceedings of the local Government or Administration.

9. As regards the gift or grant of lands, the previous sanction of the Government of India should be obtained in cases where the value of the grant exceeds Rs. 3,000, when

given as a site for the construction of Government schools, hospitals, dispensaries, or other public works, at the cost of recognized local funds; where it exceeds Rs. 500, when given for any other public purpose, or to a private individual for services to be performed to the State, or where it exceeds Rs. 100 when the services are to be performed to the community and in all cases of grants to individuals for their private benefit irrespective of any services to be performed.

\* *N.B.*—This does not refer to cases in which the local Government may have been separately authorised to dispose of lands under special rules sanctioned by the Government of India.

public works, at the cost of recognized local funds; where it exceeds Rs. 500, when given for any other public purpose, or to a private individual for services to be performed to the

#### APPENDIX L.

No. 5215.

*Extract from the Proceedings of the Government of Bombay in the Revenue Department, dated 29th September 1879.*

Read the following letter from the Secretary to the Government of India, Home, Revenue and Agricultural Department, No. 2—11, dated 1st September 1879:—

In continuation of my circular Nos. 40 to 49, dated the 14th August 1871, making certain enquiries in regard to the mineral rights of Government, I am desired to forward, for the information of His Excellency the Governor in Council, a copy of the Proceedings of this Department for August 1872, Nos. 26 to 37, and of the marginally noted correspondence with the Government of Madras and the Solicitor to Government.

From the Government of Madras, No. 847, dated the 27th February 1877, and enclosures.  
 From the Government of Madras, No. 320, dated the 23rd January 1877, and enclosures.  
 To the Solicitor to Government, No. 1481, dated 5th December 1878.  
 Reply No. 83, dated 30th January 1879, and enclosures.  
 Despatch to the Secretary of State, No. 7, dated the 1st September 1879.

2. I am to explain that, on consideration of the papers which are recorded in the Proceedings for August 1872, it appeared that no immediate action was necessary, unless Government had been prepared to resort to legislation—a course the desirability of which did not seem to be sufficiently established at that time. No general legislative measure is now in contemplation, nor is it intended to institute in the Bombay Presidency any special enquiry as to the State's rights to minerals, unless, at any time, circumstances should arise which should render such an enquiry indispensable in the interests of those exclusive pre-eminent powers which belong to the State as representing the community at large. Such powers it is all the more necessary carefully to guard when there is reason to believe that they may be valuable. It is therefore thought expedient now to direct attention to the matter, and to request, first, that, subject to any instructions which may be received from the Secretary of State in connection with the reference that has been made to him by the Government of Madras in all future grants and leases of Government waste land for cultivation in the Bombay Presidency, full rights may be reserved to Government in respect of all minerals which may be discovered in or under such land; and, secondly that, in all cases in which minerals may be discovered in any place where there is ground for the belief the Government may be entitled to them, or may have a right to assess them to land revenue, a full enquiry may be made and the result reported. Rights of way and other reasonable facilities for working, getting and carrying away such minerals as may be found should also be reserved on behalf of Government or the assignees of Government in deeds of sale and leases of waste lands.

3. Whenever it is found possible to do so, the right of Government to the minerals should be asserted and reserved in all future settlements; and if in any case this is not possible, then, in such settlements, the reservation should take the form of a right to put a separate assessment on mineral produce. This last direction, however, is of course subject to any special peculiarities which may exist in the local revenue system.

4. It will be understood that, except in so far as the precautions above directed require, it is not intended in any way to anticipate future events. Should any case similar to that of the gold discoveries in the Wynaad arise elsewhere, it can be dealt with, as it occurs, on the analogy of the instructions which Her Majesty's Secretary of State may be pleased to give on the despatch of the 1st current.

RESOLUTION.—The instructions of the Government of India should be communicated to the Commissioners of Divisions and the Commissioner of Survey for information and guidance.

#### GOVERNMENT OF INDIA.

HOME, REVENUE AND AGRICULTURAL DEPARTMENT.

*State rights in Minerals and Mining Leases.*

From the Government of India to the Secretary of State for India,—No. 7, dated Simla, the 1st September 1879.

We have now the honour to reply to your Lordship's despatches marginally noted, concerning the rights of the State in minerals, and the terms that should be imposed on gold mining leases on Government lands in the Wynaad districts of Madras. There has been

No. 40, dated 10th May 1877.  
 No. 63, dated 10th October 1878.

delay in coming to a decision on these points, because we were obliged to take legal advice on some of the questions raised, and because we desired to ascertain the policy recently adopted in Australia regarding mining leases in the gold-fields of that continent.

2. Regarding the State rights in minerals, three distinct questions had first to be considered, namely:—

- (1) whether the royal prerogative, as it obtains in England in respect to gold and silver mines, prevails in British India; and whether grantees of waste land are entitled to mines of gold and silver found thereunder, when the deed of grant is silent as to such mines;
- (2) whether, apart from such prerogative, the Crown in India can assert a right to gold, silver, or other minerals on any other ground;
- (3) whether, if both these questions are answered in the negative, the mineral resources of the land can be taken into account in assessing land-revenue.

3. The Madras Government, in their letter No. 320, dated 23rd January 1877, concurred with their Advocate General, and expressed an opinion that the royal prerogative regarding gold and silver mines did not prevail in India. They held that it would be impolitic, even if it were legally possible, to assert any Government right in the mineral resources of lands sold under the Waste-Land Sale Rules, or in lands held by certain ancient proprietors of the Malabar district. The Governor of Madras in Council advised also that the claims of ryots to the mineral wealth of their holdings should not be disturbed; and on this point His Grace in Council differed from the view expressed by the Madras Board of Revenue. The Madras Government pointed out that, if large numbers of gold-workers were to come to the mines, police and other expenses would be thrown on the Government, to meet which a reasonable royalty might properly be imposed. The Governor of Madras in Council also recommended that, until the policy of Government with reference to mineral rights in the soil was settled, all sales of Government land under the Waste-Land Sale Rules should be made subject to the reservation of the State rights in minerals found underneath those lands.

4. We referred the three questions stated in the second paragraph of this letter for the opinion of our Advocate General, of our standing Counsel, and of one of the first lawyers in Calcutta. We submit copies of the opinions of these gentlemen for your Lordship's information. It will be seen that they all three agree that the prerogative of the Crown regarding gold and silver mines does not exist in India outside the presidency towns, and that grantees of waste land are entitled to mines of gold or silver found thereunder when the terms of the grant are silent as to such mines. While there is no doubt that all the prerogatives essential to the maintenance of the executive power, such as the right of making war, peace and treaties, are in force throughout British India, yet, as the right to mines of gold and silver is merely a fiscal prerogative, and is not essential to the maintenance of the executive power, it stands precisely on the same footing as the prerogative rights to whales and sturgeon wrecks, treasure-trove, waifs and estrays—cases in which no one would maintain that the Crown has any right in India apart from express legislation. Such prerogatives, in fact, belong to that part of the English Common Law which has arisen from, and is adapted to, merely local requirements, and is not therefore in force in this country. Moreover, since the Indian Legislature, in the Punjab Land-Revenue Act (XXXIII. of 1871) section 29, thought it necessary to declare that in the Punjab mines of metal shall be deemed to be the property of Government, and since, by the Ajmere Land-Revenue Regulation (II. of 1877), section 3, the Government is, with certain exceptions, presumed to be the sole owner of all mines until the contrary is proved, it would be inconsistent to contend that the prerogative right to gold and silver mines exists in India, as, if it did, there would have been no need for these express statutory provisions, or at least these particular metals would have been excluded in framing them. On these grounds, we consider that the opinion of the law officers may be finally accepted, and that whatever be the rights of the Government of India in the matter, no claim on the part of the State can be preferred on the ground of the prevalence in India of this royal prerogative outside the limits of the presidency towns. As to the right of grantees, the decisions in England are to the effect that mines of gold and silver will not pass by a grant from the Crown without express words granting them. We are, however, advised that the principle of such decisions is wholly inapplicable to India. When this principle was established in England, grants from the Crown of its land had the effect of impoverishing the Crown, being made from favour and without consideration moving from the grantee. But in India such grants have, it is believed, usually been made in consideration of a money payment, and have therefore had the effect of enriching the Crown. We are aware that this argument was used unsuccessfully before the Judicial Committee of the Privy Council in the case of *Woolley vs. The Attorney General of Victoria*, Law Reports, 2 App., Ca. 163, 165. But the reason why it failed was that the Common Law of England (including all the prerogatives and the consequences thereof) had been introduced into the Colony of Victoria, from which that appeal was presented. No such introduction, it is conceived, can be held to have taken place in this ceded and conquered country. The reason why in England grants from the Crown are

construed strictly against the grantee is generally said to be that prerogatives are conferred on the Crown for public use, and are therefore not to be understood as diminished by any grant beyond what it takes away by necessary and unavoidable construction. But where no such prerogative exists, of course that reason ceases. We therefore consider that grantees of waste lands (whether or not the grants expressly comprise "all products both above and below the surface") are, in the absence of any provision to the contrary, entitled to mines of gold and silver found thereunder.

5. In regard to the second question, whether the State possesses other general or special rights in minerals lying under lands which are private property, our Advocate General differs from the other two learned gentlemen who were consulted. Their opinions referred mainly to Bengal and the permanently-settled districts with the circumstances of which they were conversant. Mr. Paul considers that the State has rights in the minerals found in permanently-settled estates; while Messrs. Bell and Evans think that the State does not possess such rights. We consider that the latter is the opinion most likely to be taken by the Courts. And we are confirmed in this view by the practice of the past twenty years, whereby the Government or any private parties who desired to work coal or iron within the limits of a permanently-settled estate have been obliged to buy, or at any rate have bought, the right of so doing from the Zamindár of the lands underneath which such coal or iron might exist. Regarding the circumstances of other provinces, and the way in which State rights in minerals had been asserted or waived, enquiry was made from Local Governments in the year 1871. The replies to that enquiry are recorded in the Proceedings of the Revenue, Agriculture and Commerce Department for August 1872, Nos. 26 to 37, copies of which are now submitted for your Lordship's perusal. It appears from these papers that in most parts of the country no established law or practice was known upon the subject; and that, as no mines had been opened, no occasion had arisen to determine the rights of the State in respect to such property. In the North-Western Provinces, however, it had been ruled that, where the surface land had been declared private property, the ownership extended, in default of some distinct and special reservation, to what was below the surface. In newer provinces, on the other hand, such as the Punjab, there was no settled judicial precedent making mines and metal private property. And accordingly opportunity was taken to declare by legislation (section 2 of Act XXXIII. of 1871) that mines of metal in the Punjab and also in Ajmere (section 3 of Regulation II. of 1877) should be deemed to be the property of Government. Similarly, in the Central Provinces, at the time when proprietary right in their lands was conferred upon the landholders, the full right of Government to minerals was reserved under the provisions of the Settlement Code. So also in Berar, a notification issued by the Resident in 1868 concerning the settlement then in progress declared that "the prior right to all valuable things below the surface belonged to the State."

6. On the third point, namely, whether minerals belonging to private proprietors can be taken into account in assessing the estates of those proprietors to land-revenue, the Advocate General and the other learned gentlemen consulted are, in the main, agreed that when temporarily-settled estates, come under resettlement, the minerals, just like the other resources of such estates, constitute assets on which land-revenue may fairly be assessed. This practice has been already partially followed in provinces where miscellaneous items are reckoned into the village assets for the purposes of the assessment of land-revenue.

We have already noticed (paragraph 3 of this despatch) the views of the Madras Government and of the Madras Board of Revenue regarding the rights of ryots to all mines and minerals in their holdings. Seeing that different classes of tenure may be grouped under the generic term of 'ryotwári tenure,' we hesitate finally to accept, without further enquiry, the view that all holders of ryotwári lands are entitled to all mines and minerals under the holdings. Probably the *jennies* of Malabar, whose tenure is ancient, may be so entitled. But we shall ask the Madras Government to consider further the question of the rights of ordinary ryots in the minerals under their holdings.

7. Such being the opinions of the Law officers, and such being the reports or recommendations of the several Local Governments, we would advise your Lordship to answer the three questions summarised above (paragraph 2) thus:—

- (1) The Crown has in British India no special prerogative over gold and silver mines outside the presidency towns; and grantees of waste land are entitled to mines of gold or silver found thereunder when the deed of grant is silent as to such mines.
- (2) No general rule, applicable to all provinces, can properly be laid down, either that minerals and metals found in proprietary lands belong to Government, or that they do not so belong. Even in different parts of the same province, the law and the fact on this matter may be different. When the question arises in each province, it will have to be answered for that province only, in accordance with the practice of the Government and with judicial (or other) precedent. But in any province where proprietary rights have been a recent creation of the British Government, where their precise nature and extent are still unsettled, and where custom or practice about mines has not had time to grow up, advantage should be taken of favourable opportunity to declare by legislation that mines of metals in such provinces are State property.



- (3) Mineral resources of temporarily-settled lands, where the proprietors are held to be the owners of such resources, may be taken into account at any resettlement as assets on which the public demand for land-revenue may be assessed.

Further, we should have no hesitation in proposing legislation, if necessary, to provide for raising from mining communities the expenses of special police, special communications, regulating the water-supply, or other special administrative arrangements which might be necessary for the protection or welfare of such communities. Such legislation would be in accordance with the principle adopted in section 14 of Act V. of 1861, where provision is made for enlisting special police for the protection of, and at the cost of, any manufactory or public work.

8. We have considered the proposal of the Madras Government that in future sales of waste lands the State should reserve full rights and property in all metals and minerals which may be found in such lands, and also all reasonable conveniences for working such minerals or metals, either by itself, or through other parties. We agree that it is expedient henceforward to sell or grant on lease waste lands subject to these reservations. We solicit your Lordship's sanction to our modifying the Waste-Land Sale Rules accordingly; and we enclose copy of a circular order we have issued, directing that, until your Lordship's orders are received, sales or leases of waste lands shall be made subject to such reservation of full State rights in mines and minerals, together with all convenient powers for getting the same.

9. Lastly, there remains the practical question, which requires early decision, namely, on what terms shall mining leases on Government waste lands in the Wynaad, Coorg, or adjacent auriferous tracts be given. We recognise the fact that it is of great importance to India that these gold sources should be worked to the best advantage; we admit that, if gold should be produced in large quantities, the effect of such production on the exchanges between England and India would be of great value; and we think that the terms as to royalty, area of mining leases, and the mode of working should be as liberal as may be possible without encouraging undue speculation. We learn from Mr. Brough Smyth that the most approved system of mining leases in Australia now is to let the land at a moderate rent (ten shillings) per acre, the lessee being bound to employ per acre, or per running yard of reef, a certain minimum quantity of labour on *bond fide* mining operations of an approved kind. If the lessee fails to fulfil this condition, he forfeits his lease; and the terms of the mining lease make the Governor of the Colony the final arbiter, on such evidence as may be laid before him, whether a particular lessee has, or has not, failed to fulfil the condition. In the early days of gold-mining industry in Australia, heavy fees (£3 and £2 per month) were charged for mining licenses. Subsequently an export duty was levied on gold taken from the colony; but latterly the Colonial Government of Victoria has found that the largest indirect advantages to the Colony are secured by making the mining leases simple and liberal, subject to the one condition that a certain quantity of labour is employed on *bond fide* mining operations for each acre leased.

10. Plans for levying a royalty on the ton of quartz raised, or for establishing a local office of assay and levying a royalty on the gold, have been proposed. But we consider that, for the present, while the industry is undeveloped, our object should be to make the terms of mining leases of Government lands as simple and liberal as possible. In order to prevent large areas falling into the hands of speculators, it has been suggested that a certain limit of available capital, or a certain quantity of (stamping or other) machinery, should be required per acre of land leased. But we are advised that these conditions have been tried, and have been found inoperative and unsatisfactory in Australia, and that the simple condition that a certain quantity of labour shall be employed per acre in *bond fide* mining has been found to work best. For the present, therefore, we would propose to authorise the Government of Madras to grant gold-mining leases of Government lands, in lots of from one to thirty acres, for a term of ten to twenty years, and at a rent of five rupees an acre, subject to the condition that not less than five labourers are regularly employed per acre on *bond fide* mining operations in such manner as the Government may approve. The leases should be liable to forfeiture on failure of this condition, or failure to pay rent, as soon as either failure had continued for a period of six months; and should be renewable, at the lessee's option, on such terms as the then Government may settle, at the expiration of the original term. The Governor of Madras in Council would be declared to be in each case the final arbiter, whether the lessee had, or had not, fulfilled the conditions of his lease.

We would propose thus to leave wide discretion to the Local Government with reference to the term of each lease and the area comprised therein. We do not propose to levy any royalty or other tax, for the present, on the industry, because we deem it most important to attract capital to the Wynaad gold-fields. The cost of bringing machinery for quartz-crushing to the spot will be heavy; the pioneers of the undertaking will have to buy their experience in many directions; and it is very undesirable that the first ventures now to be made should be unsuccessful.

11. If your Lordship approves the foregoing sketch of the terms on which gold-mining leases of Government lands might be granted, we shall authorise the Government of Madras to act thereupon, and we shall cause draft leases to be drawn up by our legal advisers.

12. There is apparently ground for believing that some of the best gold reefs that are known in India lie in the estates of the Rája of Nellambor and of other private proprietors. The Alpha Gold Company's works were opened in the Nellambor lands. As yet the Rája has made his own terms with companies intending to carry on gold-mining; and at present we are not prepared to urge the Madras Government to undertake legislation with a view of compelling private landowners to give gold-mining leases on any particular terms, or against their will.

13. We shall be glad to be favoured with early instructions from your Lordship, not only on the subject of the terms on which mining leases should be granted in the Wynaad, but also on the three questions raised in paragraph 2 and answered in paragraph 7 of the present despatch. And we solicit your Lordship's confirmation of our orders directing that, in all future sales or agricultural leases of waste lands in any part of India, mines and minerals found on such lands shall be reserved to the State, together with all convenient powers for working and getting and carrying them away.

From the Secretary of State for India to the Government of India,—No. 35 (Revenue—Minerals) dated India Office, London, the 25th March 1880.

I have considered in Council your letter, with accompaniments,\* dealing with the important questions of the general rights of the State to minerals in India, of modifications of the Waste-Land Rules necessary to secure these rights, and of the terms on which applications to mine in Government waste lands in auriferous tracts shall be complied with.

2. You point out that, regarding general State rights in minerals, three distinct questions have to be considered. In the first place, you hold, and I concur in your view, that the royal prerogative, as it obtains in England in respect to gold and silver mines, does not prevail in British India, at least outside the presidency towns. You proceed to infer that grantees of waste lands, whether or not the grants expressly comprise all products above and below the surface, are, in the absence of provision to the contrary, entitled to mines of gold and silver found thereunder. If this proposition be limited to grantees of waste lands "in fee simple" under the rules framed in different provinces in accordance with the instructions given by my predecessor, Sir C. Wood, in his despatch No. 14 of 1862, I do not dispute it. But I must point out that the expression "grantees of waste land," used without limitation, might be held to include persons who have received, under ordinary terms of settlement, the proprietary rights in lands formerly waste and unoccupied; and to such grantees this view does not apply.

3. As regards the second question, whether, apart from the prerogative, the Crown in India can assert a right to gold, silver, and other minerals found in proprietary lands, you are disposed to agree with Messrs. Bell and Evans that, in the permanently-settled districts, the State does not possess such right. This was the view arrived at by my predecessor, Sir C. Wood, after consideration of Mr. Millet's reports, dated 26th March 1842. But, without weighing this opinion against that of your learned Advocate General, I am disposed to think that, even if the legal right to minerals in permanently-settled estates could be established, it would not be desirable to enforce it. I agree with you that the indirect advantages resulting from making available the mineral resources of India are likely to be more valuable to the State than any direct returns; and I therefore consider that it would not be desirable to enforce the right of the State, supposing that such right can be established to mines in permanently-settled estates. Industries requiring skilled and scientific management and the extensive application of capital have flourished under the permanent settlement: and I apprehend that, speaking generally, the landholders of the Lower Provinces are sufficiently alive to their own interests either themselves to develop the mineral resources their estates may contain, or to afford facilities to others to do so.

4. This, however, does not apply to many other parts of India. I look upon it as pretty certain that the mineral resources of their lands will not be effectually worked by the present proprietors themselves of Madras or Bombay, or by the village communities of Northern India: and I apprehend that other promoters of mining enterprise would be likely to meet with considerable obstacles from intricacies of tenure and the difficulty of dealing with numerous small landholders. I consider, therefore, that care should be taken to reserve all State's rights to minerals which still exist. And I am of opinion, especially with reference to the views of the Madras Government mentioned in paragraphs 3 and 6 of your letter, that, in the absence of any distinct judicial precedent or of established law or practice, such rights should be presumed still to exist throughout India. I take it that the notion that payment of an assessment based on the agricultural value of land, and intended to cover the right of cultivation, conveys property in minerals below the surface of the soil is essentially a modern one, and would never have occurred to the Native Governments to which our own succeeded. I approve therefore of the instructions you proposed (paragraph 6 of your letter) to give to the Government of Madras on this subject. With regard to the other provinces, you state that no general rule, universally applicable, can be laid down, either that minerals

found in proprietary lands belong to the State, or that they do not so belong. But, speaking generally, in the North-West Provinces it was ruled, but not, as it appears, by judicial authority, that when the surface is private property, the ownership extends, in default of special reservations, to what is below the surface. The precise degree of authority possessed by this ruling should, however, receive further consideration. In the Central Provinces and Berar the full right of Government to minerals has been reserved at settlement, while in the Punjab and Ajmere, and, it may be added, in the Bombay Presidency,\* it has been declared by legislation that mines are the property of Government. You conclude therefore that whenever the question as to the right of the State to minerals found in proprietary lands actually arises, it will have to be answered for that locality in accordance with practice and precedent. But that where the nature and extent of proprietary rights are still unsettled, and where custom and practice regarding mines has been established, opportunity should be taken to declare by legislation that mines are State property. With these views I fully concur.

5. With regard to the third question, you consider that where proprietors of lands temporarily settled are held to be the owners of the minerals they may contain, such mineral resources may be taken into account for assessment on resettlement. In this view I concur; but request that care may be taken not to confer proprietary rights in minerals by including them among assessable assets where such ownership has not been proved previously to exist.

6. Upon the second point discussed in your letter,—the modification of the Waste-Land Rules suggested by the Government of Madras,—I agree with you that, in future, sales and leases of waste lands for agricultural purposes should be generally made subject to reservation of the full right of the State in mines and minerals, and of right of access and other reasonable conveniences for working them on behalf of Government, or the assignees of Government. I approve the circular you have issued on this subject, and sanction the necessary modification of the Waste-Land Rules.

7. Regarding the last subject discussed in your letter,—the terms on which applications to mine in Government waste land in Wynaad and similar auriferous tracts shall now be granted,—you point out that, if gold should be largely produced in India, the effect on exchanges would be highly beneficial, and that it is consequently of great importance that the gold sources in India should be worked to the best advantage. You consider therefore that the mining terms granted by Government should be as liberal as possible without encouraging undue speculation, and you deem it of importance thus to attract capital to the Wynaad gold-fields. You have ascertained that Australian experience is that the largest indirect advantage to the State is secured by making mining leases simple and liberal, on the one condition that a certain quantity of labour is employed per acre on *bonâ fide* mining operations. You propose therefore to authorise the Government of Madras to grant gold-mining leases of Government lands, in lots of from 1 to 30 acres, for terms of 10 or 20 years, at a rent of Rs. 5 per acre, on condition that not less than five labourers per acre are regularly employed on *bonâ fide* mining operations, in such manner as Government may approve. Power will be given to the Government of Madras to enforce fulfilment of these conditions, and the leases are to be renewable at the expiration of the original period on such terms as the Madras Government may then settle. You thus leave to the Government of Madras wide discretion with reference to the term and area of each lease, and you do not propose for the present to levy any royalty or other tax on the industry.

8. These arrangements appear to me to be judicious, and I approve them. With reference, however, to the last sentence of the preceding paragraph, and also to the last clause of paragraph 7 of your letter, I am of opinion that it should be made clear that for the term of leases now granted there will be no liability to any future royalty or other tax in addition to the rent, with the exception of any taxation which may hereafter be found necessary to provide, at the expense of mining communities,—the expenses of special police, communications, water-supply, sanitation, or other similar administrative arrangements needful for their own protection or convenience.

9. Finally, I have to observe that the arrangements you now propose appear to refer to mining operations in Government waste lands only. Should, however, it be decided that mineral rights in any owned or occupied lands in Madras are vested in Government, and should gold be discovered in any such lands, I presume that, with due regard to the rights of the cultivating proprietors, mining privileges will be granted on terms similar to those now approved for Government lands.

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From the Officiating Secretary to the Government of India to all Local Governments and Administrations,—No. 1-40—48 (Mineral); dated Simla, the 15th May 1880.

In continuation of my Circular No. 2-11—19, dated the 1st September 1879, I am desired to forward copy of a despatch No. 35, dated 25th March 1880, from the Secretary of State for India, regarding rights of Government to minerals in this country. The policy of

the Government of India, as already announced, is generally approved, subject to certain additions to be noticed below.

2. The most important declaration contained in the despatch is that expressed in the fourth paragraph. Hereafter, except in permanently settled estates, it will be presumed throughout India that, in the absence of any distinct judicial precedent or proof of established usage, the State has a right to minerals.

3. Attention is invited to paragraph 2 of the despatch, under which the ruling that grantees of waste lands, whether or not the grants expressly comprise all products above and below the surface, are, in the absence of provision to the contrary, entitled to mines of gold and silver found thereunder, is limited to grantees of wasteland "in fee simple," made in accordance with the rules framed upon the instructions given in Sir C. Wood's despatch No. 14 of 1862. Should any question hereafter arise in respect to grants of waste land made on other terms, Local Governments and Administrations will have to consider, in each class of cases, what is the specific effect of the form of grant regulating them as touching rights to minerals. The general ruling above quoted must be held not to apply to ordinary cultivating leases made in the course of settlement operations, or in the routine of district revenue work.

4. The direction in paragraph 5 of the despatch, to avoid conferring proprietary rights in minerals by including them amongst the assessable assets where such ownership has not been previously proved to exist, will be duly observed in making temporary settlements. The view of the Government of India, that where proprietors of temporarily-settled lands have been judicially held to be owners of minerals contained therein such mineral resources may be taken into account for assessment on resettlement, has been accepted by the Secretary of State. But, as explained in paragraph 2 above, in the absence of a judicial decision, the presumption will be that such landholders are not owners of the minerals underneath the surface of their lands.

5. With reference to paragraph 6 of the despatch, I am to request that the rules regarding the sale and lease of waste lands for agricultural purposes in force in \_\_\_\_\_ may be modified, so far as may be necessary, to make leases and sales under them subject to reservation of the full right of the State in mines and minerals, and of right of access and other reasonable conveniences for working them on behalf of Government or the assignees of Government. Full publication should be given to the modifications of rule made under these instructions; and copies of such orders as may be passed by the \_\_\_\_\_ on the matter should be forwarded to this Department for information.

#### APPENDIX M.

##### FORM OF PROCLAMATION.

(Under Section 165 of Bombay Act V. of 1879.)

Whereas the property of \_\_\_\_\_ hereinunder specified has been attached on account of the Government assessment Rs. \_\_\_\_\_ due by the said \_\_\_\_\_; and whereas it is necessary to recover the said amount by sale of the said property, together with all lawful charges and expenses resulting from the said attachment and sale:

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_ 1888 at \_\_\_\_\_ o'clock A.M., \_\_\_\_\_ A.B., \_\_\_\_\_ the Mámlatdár of \_\_\_\_\_ (or other person appointed), will, at \_\_\_\_\_ in \_\_\_\_\_ Táluka \_\_\_\_\_ in this District, sell by auction to the highest bidder and without reserve, the right, title and interest of the said \_\_\_\_\_ in the property hereinunder specified, and every power of disposing of the same or any of them or of the profits arising therefrom which the said \_\_\_\_\_ may now consistently with the law exercise for his own benefit.

##### Moveable Property.

1	2	3	4	5	6
Lot No.	Number and description of articles.	Where attached.	Where now placed.	When to be viewed.	Whether the sale is subject to confirmation or not.

*Immoveable Property.*

1	2	3	4	5	6	7	8	9
Lot No.	Description of Lot, including local situation, supposed or estimated rent or annual value, and, if leased, for how long, on what terms and to whom.	Survey number, Municipal number and other fiscal designation.	Government Revenue, including any Local Cess, any other known fiscal charge resting on the Lot.	Present occupant.	(Here enter any other particulars the Collector may see fit.)			

*N.B.*—No guarantee is given of the title of the said rights, charges or interest claimed by third parties.

or of the validity of any of the

Collector.

APPENDIX N.

*Partition of Estates by the Collector.*

1. In the division of an estate ordered by the decree of a Civil Court paying land revenue to Government, the Collector is bound by the rules laid down in section 113 of the Land Revenue Code whenever they are applicable. If a Court assigns rights in specified areas in survey numbers of less extent than the minima prescribed under section 98 of the Code, these rights cannot be registered in the Government accounts, or be otherwise recognized by Government. (G. R. 7052 of 23rd November 1881.)

2. When the division or separation of a share of an undivided estate paying revenue to Government is made by the Collector, under the orders of a Civil Court, in accordance with the provisions of section 265 of the Code of Civil Procedure, 1877, the following fees shall be levied (in addition to those prescribed at page 129 of the High Court Circular Book) as remuneration for travelling expenses *bond fide* incurred by subordinates in the Revenue establishment employed on such division or separation of estates :—

*For Clerks and Karkuns of Collectors, for each day actually on tour.*

Rate of salary per mensem.	Europeans and Eurasians.			Natives.		
	Not exceeding					
	Ra.	a.	p.	Ra.	a.	p.
On Ra. 100 and upwards ... ..	1	7	0	1	4	0
On Ra. 75 to less than Ra. 100 ... ..	1	1	0	0	14	0
More than Ra. 50 to less than Ra. 75 ... ..	0	13	0	0	10	0
On Ra. 30 to Ra. 50 ... ..	0	10	0	0	8	0
Less than Ra. 30 ... ..	0	8	0	0	6	0

*For Mamlatdars' Karkuns.*

	Not exceeding		
	Ra.	a.	p.
On Ra. 30 and upwards ... ..	0	7	0
On less than Ra. 30 ... ..	0	5	0

*For Peons.*

Not to exceed one anna per diem.

(Bombay Government Gazette of 1876, p. 255.)

## APPENDIX O.

No. 4213.

REVENUE DEPARTMENT.

*Bombay Castle, 21st July 1881.*

In exercise of the powers given by Section 55 of Bombay Act V. of 1879, the Governor in Council authorizes the Commissioner in Sind to fix rates for the use by landholders and others of water the right to which vests in Government, for the cultivation of rice on any land not assessed and entered in the Survey Registers as rice land.

2. The amount of such rate shall be subject to the approval of Government, and shall, after sanction, be notified in the office of the Mukhtyárkar of the táluka in which the land on account of which the rate is levied is situated.

3. Any person desiring to grow rice in land not assessed as rice land shall make an application in writing to the Mukhtyárkar or other officer duly authorized to receive such application, for permission to make use of the supply of water needful for growing rice, stating if he requires it for one year only or permanently; and if any person cultivates rice in such land without such permission he shall be charged with double the rate he would otherwise have been required to pay had he applied for and obtained permission.

4. All persons who now hold or may hereafter apply to take up lands assessed and recorded in the Survey Registers as rice lands, shall, as soon as possible after the publication of these Rules or on application to take up such lands, be tendered a list of such rice lands then being or about to be in their occupation, and rice shall not be grown on any number not included in such lists except on payment of the extra rate.

( 52a )

## APPENDIX Q.

*Form of security bond to be taken from treasurers or other officers of Government entrusted with the charge of public money.*

KNOW all men by these presents that \_\_\_\_\_ (Principal) of \_\_\_\_\_ (1st surety) \_\_\_\_\_ (2nd surety), are held and firmly bound unto the Secretary of State for India in Council in the sum of Rs. \_\_\_\_\_ to be paid to the said Secretary of State in Council, his successors or assigns, or his or their certain attorney or attorneys for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and representatives jointly, and every two of us bind ourselves, our heirs, executors, administrators, and representatives jointly, and each of us binds himself, his heirs, executors, administrators, and representatives severally, firmly by these presents, sealed with our seals, dated this \_\_\_\_\_ day of \_\_\_\_\_ 188 \_\_\_\_\_, and each of us the said \_\_\_\_\_ doth hereby for himself, his heirs, executors, administrators, and representatives, covenant with the said Secretary of State in Council, his successors and assigns, that if any suit shall be brought touching the subject-matter of this obligation or the condition hereunder written in any court, subject to the High Court of Judicature at \_\_\_\_\_ other than the said High Court in its Ordinary Original Jurisdiction, the same shall and may at the instance of the said Secretary of State in Council, be removed into, tried and determined by the said High Court, in its Extraordinary Original Jurisdiction.

WHEREAS the above bounden \_\_\_\_\_ was on the \_\_\_\_\_ day of \_\_\_\_\_ 188 \_\_\_\_\_ appointed to and now holds and exercises the office of Treasurer at \_\_\_\_\_; AND WHEREAS, by virtue of such office, the said \_\_\_\_\_ has, amongst other duties, the care, charge, and oversight of and responsibility for the safe and proper storing and keeping in the places appointed for the custody thereof respectively, of all money, specie, bullion, coin, jewels, Government currency notes, stamps, and Government securities of whatever description, gold, silver, copper, lead, goods, stores, chattels or effects stored and used at, received into or despatched from the Treasury of \_\_\_\_\_ or paid, deposited or brought into the said Treasury by any person or persons whomsoever and for any purpose or purposes whatsoever; AND WHEREAS the said \_\_\_\_\_ as such Treasurer as aforesaid is also responsible that all such moneys, specie, bullion, coin, jewels, Government currency notes, stamps, and Government securities of whatsoever description, gold, silver, copper, lead, goods, stores, chattels, or effects (hereinafter together only called "the said property") are and is of full measure and good quality when received into the said treasury and until he has duly accounted therefor and for every part thereof in manner hereinafter referred to; AND WHEREAS the said \_\_\_\_\_ is bound whenever called upon so to do to show to his superior officers that the said property and every part thereof save so much thereof as he has duly accounted for is at all times intact in the places aforesaid and is also bound to attend for the purpose of discharging his duties aforesaid at such times and places as his superior officers may appoint; AND WHEREAS the said \_\_\_\_\_ is further bound to keep true and faithful accounts of the said property and of his dealings under written orders of his superior officers therewith respectively in the form and manner that may from time to time be prescribed under the authority of Government, and also to prepare and submit such returns and such accounts as he may from time to time be called upon to do; AND WHEREAS the bulk of the said property remains as well in the care, charge and custody of the Treasury Officer for the time being at \_\_\_\_\_ as of the said \_\_\_\_\_ but as between himself and the said Secretary of State for India in Council he the said \_\_\_\_\_ is alone responsible and answerable therefor and for every part thereof; AND WHEREAS the responsibility of the said \_\_\_\_\_ for the said property and every part thereof does not cease until the same has been duly used under the written orders aforesaid and accounted for or been duly despatched from the said Treasury and delivered over to and a full and complete discharge therefor obtained from such persons and places as the district officer of \_\_\_\_\_ or other the person exercising his functions for the time being under the sanction of the Government of \_\_\_\_\_ may direct, or hath used and accounted for and despatched as aforesaid; AND WHEREAS the said \_\_\_\_\_ in consideration of his said appointment has delivered to and deposited with and endorsed over to \_\_\_\_\_ as such district officer as aforesaid Government securities to the extent of Rs. \_\_\_\_\_ of which the numbers, amounts and other particulars are set forth and specified in the Schedule hereunder written for the purpose of in part securing and indemnifying the said Secretary of State in Council, his successors and assigns, against all loss and damage which he or they might or may in any way suffer by reason of the said property, or any part or parts thereof being in any way consumed, wasted, embezzled, stolen, misspent, lost, misapplied or otherwise dishonestly, negligently or by or through oversight or violence made away or parted with by himself the said \_\_\_\_\_ or any person acting for him in his said office during his absence or otherwise or by any sub-treasurers, servants, clerks, sircars, cash-keepers, poddars, coolies or other persons, nominated or accepted by or serving under him the said \_\_\_\_\_ or by any other person or persons whomsoever, whether in the

service of Government or otherwise; AND WHEREAS the said (principal) and the said (1st surety) and (2nd surety) as his the said sureties in that behalf have entered into the above bond in the penal sum of conditioned for the due performance by him the said of the duties of the said office aforesaid and of other the duties appertaining thereto or which may lawfully be required of him and the indemnity of the said Secretary of State in Council and his servants against loss from or by reason of the acts or defaults of the said and of all and every the persons and person aforesaid: Now the condition of the above written bond is such that if the said has whilst he has held the said office of Treasurer as aforesaid always duly performed and fulfilled the said duties of the said office and other the duties aforesaid and if he the said shall, whilst he shall hold the said office, always duly perform and fulfil all and every the duties thereof aforesaid, and further if the said and do and shall indemnify and save harmless the said Secretary of State in Council, his successors and assigns, the Government of and all and every the person or persons who from time to time has or have held or shall hold or exercise the said office of district officer while the said has held or shall hold and enjoy the said office of Treasurer as aforesaid of and from all and every loss and damage, which, during the time the said has held, executed and enjoyed the said office, has happened or been sustained, or shall or may at any times or time hereafter during the time that he the said or his agent or agents, nominee or nominees, shall hold or exercise or act in the said office happen to or be sustained by the said Secretary of State in Council, his successors or assigns, the Government of or the said district officer, for the time being, by, from or through the means of the neglect, failure, misconduct, disobedience, omission or insolvency of the said or his said agent or agents, nominees or nominees, or of any of the sub-treasurers, servants, clerks, sircars, cash-keepers, poddars, coolies or other persons nominated, accepted by or serving under him the said or his said agent or agents, nominee or nominees, or by, from or through the consuming, wasting, embezzling, stealing, mispending, losing, misapplying or otherwise dishonestly or negligently, or through oversight or violence, making away or parting with the said property or any part or parts thereof, by any person or persons whomsoever, whilst he or the said has acted or shall continue to act in the said office of Treasurer as aforesaid, then this obligation to be void and of no effect, otherwise the same shall be and remain in full force and virtue. Provided always and it is hereby declared and agreed by the said and with the said Secretary of State in Council, that the Government Promissory Notes for Rs. so deposited as aforesaid respectively or such other Government security or securities to the same amount as the district officer for the time being of the Government of may consent from time to time to accept and receive and shall accordingly receive in lieu or exchange for the same and the interest thereof respectively shall be and remain with the said District Officer for the time being or the Government of as and for part and additional security to the said Secretary of State in Council, his successors and assigns, for the purposes aforesaid with full power to the said Secretary of State in Council, his successors or assigns, or his or their officers and servants, duly authorised in that behalf, from time to time as occasion shall require, to sell and dispose of the said Government securities or a sufficient portion thereof with the interest thereon and to apply the proceeds thereof in and towards the indemnity as aforesaid of the said Secretary of State in Council, his successors and assigns, as the case may require, but nevertheless the interest of the said Government securities may in the meantime be paid over as the same shall be realised by the said district officer for the time being or the Government of if they shall think fit to the said Provided further and it is hereby expressly agreed and declared between and by the said and the Secretary of State in Council that it shall be lawful for the said with the consent of the said district officer or of other the person exercising his functions for the time being under the sanction of the Government of first had and obtained to change and substitute for the said deposit of Government Promissory Notes for Rupees or any part thereof or for any substituted notes from time to time other notes of the same or other loans of the same or greater value without in any way affecting the obligation of the said bond or the liability of the said and as such securities as aforesaid.

The Schedule above referred to

NOTE.—It is not necessary or possible that all security bonds, to be executed in future, shall be drawn up in the exact form which is here prescribed. Modifications will no doubt be required to render the form of agreement suitable in particular cases, but it is important that there should be as little difference as possible in the nature of the obligation of the signatories to the bond, and the interests of Government must in every instance be fully secured.

Without the special sanction of Government, the only form of security to be taken from treasurers or other officers of Government who are entrusted with the charge of public money shall consist of Promissory Notes (including Stock Notes) of the Government of India.

The Revenue authorities are, subject to the orders of Government, responsible for seeing that adequate security is taken from any of their subordinates (including all officers in district and sub-treasuries) who may be entrusted with the custody of public money.



**PART II**

**RULES UNDER THE LAND ACQUISITION  
ACT, 1870.\***

*Under Section 59.*

1. Whenever it shall appear to the Collector desirable that the Government revenue or haks of any kind shall be remitted in payment or part-payment of the compensation to be awarded for land taken under this Act, he shall estimate the value of such revenue or haks, and deduct it from the estimated compensation to be awarded to the owner of the land.

2. If the land has been surveyed and assessed to the land revenue under the provisions of Act I. of 1865, or when it bears an assessment according to existing practice, the value of the Government claims on such land shall be calculated at not less than twenty-five times the survey assessment; but houses, trees, crops, wells and improvements shall be estimated separately on the best information available to the Collector.

3. When the land to be taken under this Act has not been so surveyed and assessed under Act I. of 1865, or does not bear an assessment according to existing practice, the Collector shall proceed to assess it on the best information he can procure, and the value of the Government claims on such lands shall be calculated at not less than twenty-five times the assessment fixed by the Collector, with the approval of the Revenue Commissioner.

4. When making an award of compensation to be given under section 42 of Act X. of 1870, the Collector or Court shall record separately the compensation to be granted under the first clause of section 24 of the Act, which concerns the market value of the land and the portion of compensation to be granted under the 2nd, 3rd, and 4th clauses of that section.

5. The procedure required for a reference under section 15 shall be applicable to a reference under section 43.

6. When the amount of compensation to be awarded under section 43 (for temporary occupation of land) has been fixed, and there is a dispute as to the division of the amount among the persons interested, the Collector shall refer such dispute to the Court for decision, and the procedure prescribed by section 39 shall be applicable to such a reference.

7. Any informality in the proceedings of the Collector or Court under this Act shall not vitiate the award, unless the interest of any party or parties are injuriously affected thereby.

*Instructions for the Administration of the Land  
Acquisition Act X. of 1870.*

1. The first part of Act X. of 1870 is concerned principally with definitions, among which the only

\* Local Funds and Cantonment Funds are not public revenues within the meaning of the proviso of section 6 of Act X. of 1870. (G. R. 255 of 14th January 1882 and 1079 of 16th February 1882.) Acts relating to the acquisition of lands for public purposes must be construed strictly in favor of the subject (12 B. H. C. Reports 250.)

one to which it is necessary to direct special notice is that of the expression "Collector." This includes "any officer specially appointed by the Local Government to perform the functions of a Collector under this Act," but no provision is made in the Act for the delegation by the Collector of any of his powers to a Deputy or Assistant Collector; no such delegation is lawful.

2. Rules for taking up land for Guaranteed Railways were issued by the Government of India in their Circular No. 55 of 29th June 1861 as modified by No. 27 of 27th September 1869 (Appendix H.). The applications for this land will be forwarded by the Railway Companies to the Consulting Engineer for Railways, who will, when necessary, submit them for the orders of Government.

3. The Rules for taking up land for State Railways are contained in Government of India's Circular No. 10, dated 25th August 1871 (Appendix K).<sup>\*</sup> Land for this purpose will also be applied for through the Consulting Engineer for Railways, unless otherwise ordered.

4. When land is required for public purposes in any other case, the officer requiring it should, in the first instance, consult the Collector of the district, and obtain from him the fullest possible information as to the probable cost of the land per acre or otherwise, together with the value of buildings, &c., situated on the property, and for which compensation will have to be paid. Upon the information thus obtained, an estimate should be framed by the said officer, and submitted through the proper channel for sanction. When sanction to an estimate, framed as above directed, has been obtained, the said officer should commit the matter to the Revenue officer, who will take the necessary preliminary action for the appropriation of the land under the Act, or for its acquisition by private negotiation, subject to the instructions which he may receive from the Revenue authorities to whom he is subordinate.

The sanction will be communicated by Government to the chief officer of the department through which the reference has been made, and also to the Commissioner, and Controller of Public Works Accounts, or the Accountant General, as the case may be; and the Government order will also state against what particular item of the budget the expenditure is to be charged.

5. When the estimate originally framed and sanctioned is likely, when the land comes to be acquired, to be materially exceeded, the Revenue officer shall refer the matter again to the officer concerned to ascertain whether the object sought cannot be otherwise secured, either by obtaining some other plot of land in lieu of that originally proposed for acquisition, or in some other manner. When such a reference is made, the said officer should, in personal communication with the Revenue officer, consider the case, and, if it is found impos-

<sup>\*</sup> This Circular has been superseded by Circular No. 21 of 12th October 1881. (See Appendix K.)

sible to obtain the land required without materially exceeding the original estimate, should submit a revised estimate for sanction.

6. Whenever it is thought necessary or expedient that steps should be taken for the acquisition of the land under the Act, an application to that effect should be submitted, with the reasons for the same, by the Collector, through the ordinary channel, to Government in the Revenue Department.

7. Sections 4 and 5 lay down certain rules, under which a preliminary investigation is to be made into the condition and circumstances of lands which the Local Government may consider likely to be needed for any public purpose. It is to be observed that the preliminary investigation provided for by these sections of the Act will not be, in all cases, necessary. In ordinary cases, the demarcation and measurement required by section 8 of the Act will answer all the purposes which the provisions of sections 4 and 5 are designed to serve under peculiar circumstances. Should any such circumstances exist, they should be reported to Government by the Collector, or head of the department for the use of which the land is required, with a view to the publication of a notification under section 4; and, upon such publication, the following Rules will be observed in carrying out the provisions of the sections under notice.

8. The conduct of the preliminary investigation will, unless otherwise specially ordered, fall into the hands of the chief local representative of the particular department or company for the use of which it is proposed to occupy the land. In the case of lands required for local or municipal purposes, the Collector of the district, or one of his Assistants or Deputies, is to be deemed the representative of the municipality or local fund committee.

9. The officer entrusted with the preliminary investigation should, in the first instance, prepare a draft notification, in Form A., for issue under section 4 of the Act, and submit the same to Government through the Collector.

10. After publication of the notification in the *Government Gazette*, due notice of the substance of such a notification will be publicly given by the Collector at convenient places in the locality, and the Collector must invariably apprise the officer entrusted with the preliminary investigation of the issue of the public notice prescribed by section 4. It is illegal for such officer to commence his investigation until he is certified of such issue of the notice.

11. After having been informed of the issue of the public notice from the Collector, the officer entrusted with the preliminary investigation will proceed to examine the land according to the provisions

of section 4, and to prepare a map or plan of the land in accordance with prescribed rules, and make it over to the Collector, who shall prepare the draft declaration under section 6. He will take care to tender payment for all damage under section 5.

12. The investigation to be made by the Collector in cases referred to him under section 5 is a summary one. He must be guided by the result of a local inquiry, which he is at liberty to make either in person or by deputy. He will himself, however, be held responsible for the award made by him, and if the claim be for any sum exceeding Rs. 300, the inquiry should be conducted by an Assistant or Deputy Collector, but the award must be made by the Collector himself.

13. When no preliminary investigation is considered necessary under section 4, the Collector, on being applied to by the Consulting Engineer for Railways, or other responsible executive officer, and on being furnished with the plan of the land required, and other requisite particulars, shall prepare the declaration for submission to Government.

14. Although the particular land to be acquired must be described in the declaration to be made under section 6, the law does not require that its precise boundaries or area should be exactly specified. The declaration should be in the form of Appendix B., and should be so generally worded that no impediment may afterwards arise from its terms to the appropriation of all the land that can possibly be required. In other respects the declaration should be as precise, and should contain as accurate a specification of the boundaries, as possible. The declaration will be issued by Government in the Revenue Department.

15. When issuing the declaration, Government will at the same time direct the Collector or one of his Assistants to take order for the acquisition of the land. The Collector, in making his report, should mention the name of the Assistant he wishes to take order under section 7.

16. After the issue of the declaration, the officer who was entrusted with the preliminary investigation, or, in case no such investigation shall have been held, some officer on behalf of the department or company for which the land is required, such department, not being the Revenue Department, shall, if it has not already been done, mark out the boundaries of the land, and furnish the Collector with a plan or map of it, prepared according to rule. The Collector will then proceed to have the plan carefully tested by a competent surveyor, and, in case of any error or discrepancy being apparent, shall correct it.

17. If the land be required for the Revenue Department, the necessary demarcation and the preparation of the map will be carried out by an officer deputed for the purpose by the Collector.

18. When the Collector or other officer vested with the necessary powers under section 3 shall have satisfied himself that the plan is correct, he will proceed to ascertain the rates of rent paid, and will record them, and will appraise the value of the land, houses, wells, trees, or crops, or improvements upon it. The Collector may delegate to an Assistant or Deputy Collector the conduct of the inquiry contemplated in this paragraph.

19. As soon as the operations prescribed by the last preceding instruction have been completed, the notices described in section 9 should be issued and subsequent proceedings taken in accordance with the law. Forms of notice will be found in Appendices C. and D. A form of requisition under section 10 is given in Appendix E.

20. The Collector's attention is drawn to the 4th rule of the rules having the force of law, published in *Government Gazette* dated 13th March 1873, which directs the Court to make a separate finding, under the first head of section 24, for the calculation of the additional compensation.

21. An award made by a Collector cannot, if it is made in accordance with the provisions of the law, be subsequently amended by any authority. Officers should, therefore, be most careful, before making an award, to take all precautions to avoid error or oversight.

22. Section 16 empowers the Collector, or other officer vested under section 3, to take possession of the land as soon as he has made an award or a reference to the Court, and the Act empowers no one else to do so. It is to be distinctly understood that occupation of such land by any other officer or person, without written authority from the Collector, is illegal, and that the limitation prescribed by the latter clause of section 58 will not apply to any suit that may be instituted against the offender. When the land has been taken up, possession should be given by the Collector to an officer nominated, in writing, to receive it by the Railway Company, Executive Engineer, or other authority on whose behalf the application was originally made, and to no other person.

23. In cases of urgency, section 17 allows occupation by the Collector, under special orders from the Local Government, before award or

reference. But the Collector must offer compensation for crops and trees on such land. It is only necessary, in regard to this section, to notice that it applies to "waste and arable" land only, and not to land occupied by roads, tanks, buildings, &c.

24. Sections 18 to 36 regulate the procedure to be adopted by the Court in the investigation of cases referred by the Collector. The only sections among them, other than sections 24 and 25 already referred to; which concern the Collector, are sections 18, 19 and 35, and their provisions call for no special remark, except that the assessor to be nominated by the Collector under section 19 should be, as a rule, an officer of Government specially selected for that purpose.

25. The rules for payment are contained in sections 40 to 42. The Collector is personally responsible for the disbursement of the amount as soon as it falls due, under the provisions of these sections. If the amount to be disbursed is likely to exceed the funds at the Collector's command, he should take timely steps for obtaining, in accordance with departmental instructions, the necessary supply of money before the date on which the payment becomes due; but payment must, in any case, be made when due.

26. When the lands have been held heretofore free of rent in cash or kind, or on a quit-rent, on condition of the performance of some public service, the Collector should, if necessary, refer the matter to the Revenue Commissioner, in view to obtain instructions for the due representation, before the Court making the award, of the Government interest involved in the apportionment of the compensation in respect to its lien, for the purposes of the public service.

27. The Collector must disburse all costs of measurement under section 8. Costs when incurred under sections 4 and 5 will be disbursed by the officer entrusted with the preliminary investigation.

28. The Act does not authorise the Collector whether the award shall have been made by himself or by the Court, to make any portion of the payment in the form of an abatement of the Government revenue; but by rules passed by Government, and having the force of law, provision has been made to that effect, and it will be the duty of the Collector, before proceeding to determine the amount of compensation to be allowed, to decide, after careful consideration, whether any portion of the payment should or should not be made in the form of such abatement, and to pay strict attention to those rules which will be found in *Government Gazette* dated 13th March 1873. He will be guided in his decision by the principle laid

down in the next succeeding paragraph, and, in cases referred by him to the Civil Court for adjudication, he shall communicate his decision on this point to the Court, which is bound, under the rules, to give effect to it.

29. When the land may be acquired for Government, the account to which the compensation money may be debited, should also be charged with the value of the Government revenue abated, and such amount should be credited *per contra* under the head of land revenue.

Adjustment of value of revenue abated when land is taken up for Government.

30. When land is acquired for municipalities and companies, they will be required, in cases when payment of compensation may have been made, partly or wholly by an abatement of revenue, to pay to Government, in addition to the cash compensation awarded to persons interested in the land, the value of the abatement of Government revenue made for such land as recorded in the award calculated at not less than 25 years' purchase.

Adjustment of value of revenue abated when land is taken up for municipalities and companies.

31. The attention of Collectors is called to the provisions of section 42, by which an additional compensation of fifteen per cent. on the *market value*, not the total award, is to be paid to the owners of the land occupied.

Additional compensation under section 42.

32. Sections 43 to 45 prescribe the procedure to be followed in procuring temporary occupation of land. All the procedure required by paragraph 13 of the instructions will apply. Generally, also, the same procedure will apply as in cases of land taken permanently.

Temporary occupation of land under sections 43 to 45.

33. Sections 46 to 50, making special provision for the terms on which Government will take up lands for the use of companies, need no particular comment. The officer of any company for whom Government may undertake to acquire land will, when authorised under section 4, proceed according to the instructions already given. Under section 50, the agreement must appear in the *Gazette of India* as well as in the *Local Official Gazette*.

Acquisition of land for companies under sections 46 to 50.

34. The award of the Collector under section 54 must be made, as under section 5, on a summary inquiry, but a record should be kept—the Collector's order is final.

Awards under section 54 made on summary inquiry.

35. When the case has been appealed, it will be submitted with Statement F., and will show the award as finally determined. And as soon as the time for an appeal has passed, the Collector shall forward to Government the information contained in Appendix G.

Tabular returns.

36. Whenever a special officer is deputed for taking up lands for public purposes, as for a railway, canal, or road, he will be supplied with funds by the Controller of Public Works Accounts, by means of credit orders, and he will render to that officer monthly accounts of expenditure, as prescribed for a civil disbursing officer. In all other cases, the Collector will make the necessary disbursement from his general treasury balance, and will enter the expenditure, in his cash account, under the head to which it is properly debitable, for adjustment by the Accountant General.

Disbursement how to be made, and bills to be submitted.

Alienations to be noted in General Register (A).

37. Alienations of land under this Act should be carefully noted in the village maps and registers.

38. With reference to section 17, clause 3, of the Indian Registration Act VIII. of 1871; every receipt for Rs.100 or more of compensation paid under Act X. of 1870 must be registered. It is to be observed that separate receipts for less than Rs. 100 need not be registered, even though they concern one plot of ground, and aggregate Rs. 100 or more.

39. Although the Collector is vested with full power under the Act, he is to act under the general instructions of the Commissioner.



APPENDIX A.

[See paragraph 9 of Instructions.]

*Form of Declaration under Section 4, Act X. of 1870.*

Whereas it appears to the Governor of Bombay in Council that land is likely to be required to be taken by Government at the public expense for a public purpose, viz., for \_\_\_\_\_, in the village of \_\_\_\_\_, Taluka \_\_\_\_\_, Zilla \_\_\_\_\_; it is hereby declared that for the above purpose a piece of land measuring, more or less, \_\_\_\_\_ acres, \_\_\_\_\_ guntas, of standard measurement, bounded on the (*here specify the boundaries*), is likely to be required within the aforesaid village of \_\_\_\_\_

This declaration is made, under the provisions of Section 4 of Act X. of 1870, to all whom it may concern, who are hereby warned not to obstruct or interfere with persons employed on the land.

APPENDIX B.

[See paragraphs 11 and 14 of Instructions.]

*Form of Declaration under Section 6, Act X. of 1870.*

Whereas it appears to the Governor of Bombay in Council that land is required to be taken by Government at the public expense for a public purpose, viz., for \_\_\_\_\_, in the village of \_\_\_\_\_, Taluka \_\_\_\_\_, Zilla \_\_\_\_\_; it is hereby declared that for the above purpose a piece of land, measuring, more or less, \_\_\_\_\_ acres, \_\_\_\_\_ guntas, bounded on the (*here specify the boundaries*), is required within the aforesaid village of \_\_\_\_\_

This declaration is made, under the provisions of Section 6, Act X. of 1870, to all whom it may concern, who are hereby warned not to obstruct or interfere with persons employed on the land.

APPENDIX C.

[See paragraph 19 of Instructions.]

*Form of Notice to be published under paragraphs 1 and 2, Section 9, Act X. of 1870, for land to be taken up.*

Notice is hereby given that \_\_\_\_\_ acres, \_\_\_\_\_ guntas, more or less, of land situate in or near the village of \_\_\_\_\_, bounded as below, and recently marked out and measured, is about to be taken by Government for a (*here specify the purpose*) under Act X. of 1870, in accordance with a declaration No. \_\_\_\_\_, dated \_\_\_\_\_, published in the *Government Gazette* of the \_\_\_\_\_. All persons interested in this land are hereby called upon to appear personally or by agent on the (*enter a date not less than fifteen days from the date of the publication of the notice*) at the office of \_\_\_\_\_ at \_\_\_\_\_, to state the nature of their interest in the land, and the amount and particulars of their claims to compensation for the same.

*Boundaries.*

North.		East.
South.		West.

Collector.

APPENDIX D.

[See paragraph 19 of Instructions.]

*Form of Notice to be issued under paragraphs 3 and 4, Section 9, Act X. of 1870, to occupiers of the land to be taken up, and other persons known or believed to be interested in it or to be entitled to act for persons so interested.*

Notice is hereby given that \_\_\_\_\_ acres, \_\_\_\_\_ guntas, more or less, of land situate in or near the village of \_\_\_\_\_, bounded as below, and recently marked out and measured, is about to be taken by Government for a (*here specify the purpose*) under Act X. of 1870, in accordance with a declaration, No. \_\_\_\_\_, dated \_\_\_\_\_, published in the *Government Gazette* of the \_\_\_\_\_. If you have any interest in this land, or are entitled to act for persons so interested, you are hereby called upon to appear personally or by agent on the (*enter a date not less than fifteen days from the date of the publication of the notice*) at the office of \_\_\_\_\_, at \_\_\_\_\_, to state the nature of such interest in the land, and the amount and particulars of any claim you may wish to prefer for the same.

*Boundaries.*

North.		East.
South.		West.

Collector.

## APPENDIX E.

[See paragraph 19 of Instructions.]

*Form of Requisition under Section 10, Act X. of 1870, to be added when necessary to Notice in Appendix D.*

You are hereby required to furnish the undersigned with a statement containing, so far as may be practicable, the name of every person possessing any interest in the land, or any part thereof, referred to in the notice of \_\_\_\_\_ served on you, as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Collector.

## APPENDIX F.

[See paragraph 35 of Instructions.]

*Statement of Proceedings on Appeal.*

1	2	3	4	5	6	7
Date of Appeal.	Date of decision of Appellate Court.	Amount finally awarded.	Amount of additional compensation.	Total (Columns 3 & 4).	Date from which abatement of revenue, if any, takes place.	REMARKS.

Collector.

## APPENDIX G.

[See paragraph 35 of Instructions.]

*Particulars of compensation awarded by \_\_\_\_\_ under Section \_\_\_\_\_, Act X. of 1870, to all the persons interested in the plot of land described below, situated in the village of \_\_\_\_\_, Taluka \_\_\_\_\_. The said plot is bounded as shown in the plan hereunto annexed, which has been prepared under Section \_\_\_\_\_, Act X. of 1870, and measures \_\_\_\_\_ acres, \_\_\_\_\_ roads, \_\_\_\_\_ poles, \_\_\_\_\_ chains.*

1	2	3	4	5	6	7	8	9	10	11
Names of persons in whose favour the award has been made.	How interested in the land.	GROSS COMPENSATION AWARDED.			Additional compensation awarded under Section 41, payable in cash.	Amount of interest awarded under Section 42.	Costs decreed to Government.	Costs decreed against Government.	Net amount to be disbursed in cash (Columns 4, 6, 7, minus Column 8, or plus Column 9).	REMARKS.
		Value of abatement of Government revenue.	Amount payable in cash.	Total.						

Form.—The Collector will report on what grounds he determined whether a portion of compensation should or should not be paid in the form of abatement of Government revenue.

Collector.

## APPENDIX H.

[See paragraph 2 of Special Instructions.]

*Rules for taking up Land for Railway purposes (by the Government of India), issued 29th June 1861.*

1. Land required for Railway purposes may be divided into 4 classes—A., B., C., and D. *First, Class A.*—Land which a Railway Company receives free of charge, under the contract with the Government for permanent occupation. *Second, Class B.*—Land also provided free of cost, but only for temporary occupation. *Third, Class C.*—Land which the Railway Company has to provide at its own cost. *Fourth, Class D.*—Land which does not come directly into the possession of the Railway Company at all.

2. Class A. will comprise the land acquired for the permanent works of a Railway, including the road with its bridges, &c., and all stations, workshops, permanent storehouses, and the like necessary for the line when opened, and which under the contracts is to be provided by Government, free of cost, to the Railway Companies. The occupation of this land by a Railway Company will be so far permanent that it will only cease when their contract is terminated or surrendered, and the whole lapses to Government. It is all provided free of charge.

3. Class B. will contain land essential for the execution of the permanent works of a Railway, but not required after the completion of the line in part or in whole. It also is provided free of charge—such as land for spoil banks, extra excavation to make banks, for river diversion, and for the storage of Railway materials held in stock by the Railway Company pending the construction of the line or their despatch to the works;\* the occupation of this class of land will be temporary. On its restoration to the Government, the proper time for which will be settled in each case between the Railway Officers and the Consulting Engineer, it will be for the Revenue Officers to dispose of it to the best advantage of Government.

4. Class C. will contain the land which a Railway Company has to provide at its own cost. This is the land which is required for the provision or preparation of materials; for purposes contingent on the actual execution for the works on the line, or for other miscellaneous objects, which the Government recognizes as falling legitimately within the scope of the Railway Company's operations, though not giving the Company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the Capital, receiving only from Government, without charge, the land on which the works stand, the provision of all materials, and the means of facilitating the execution of all works, are to be at the cost of the Railway Company.† It is proper to bear in mind, in fixing the rent, that this land will in part deteriorate by the use to which it is put and in part will not so deteriorate. In all cases, however, it will be most convenient to deal with the land, in the first instance, in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined, as under Class B., by the Railway Officers and Consulting Engineer.

5. Class D. will contain that land which, being required in consequence of the works of a Railway, still does not come directly into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively land for roads—either new roads leading to Railway stations, or to permanent storeyards or workshops, detached from the main works, diversions, or changes of old roads made necessary by Railway works.

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\* This last sort of land is allowed free under the Right Honourable the Secretary of State's letter No. 25 of 30th November 1858.

† The following words were also in the original rules :—

"In this class, therefore, will fall all land for brick-making, quarrying, ballast (1) for houses, for persons employed on the work, &c., so also land for houses for Engine-drivers, and the like on the line when opened, and for other similar purposes will come under Class C."

But H. M.'s Secretary of State for India thought that any particularization in the rule might raise questions as to the power of Government to alter or vary the terms of the contract (a power which the Government has no intention of claiming). It has, therefore, been thought best to give these words in a note, simply for the guidance of the officers of Government and parties interested, as to the construction which Government puts on the contract in regard to certain points of frequent practical application.

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(1) In the original rules, the words "for roads to works in progress" here found place. They have now been struck out as calculated to mislead. It is clear a road may be required from a site used temporarily for storage of materials also itself in Class B. This would carry the road itself into the same class. A road from brickfield or quarry would be in the same category as the brickfield or quarry, viz., Class C. Whereas a road from a detached, but permanent, store-yard, although leading "to works in progress," would not the less come under Class D., should such road still be necessary after the completion of those particular works. Thus, generally, the circumstances of the tenure of land at the end of the road furthest from the railway will decide the class into which the road itself shall be placed.

6. Inconvenience is likely to arise if Railway Companies are permitted to hold land on their own account or otherwise than as above explained. By causing them to rent from the Government all land to which they are not entitled free, in the manner above explained, simplicity in the tenure of their property will be secured, which will be a matter of importance at a future time when the Railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in Class A., which might be held by a Railway Company, would certainly be, in such an event, a great embarrassment.

7. Houses, trees, tanks, or other property on land which is not provided free of charge, and for which special payment or compensation is necessary, will be paid for at once by the Railway Company. In the case of land provided free of charge, the materials, &c., derived from the "clearance" of the surface, which then will be at the expense of Government, will be disposed of by the Revenue Officers to the best advantage.

8. All land required for a line of Railway will be applied for in continuous portions; the plans will be drawn to a scale of 150 feet to the inch, and the measurements and areas will be recorded in accordance with the fiscal divisions of villages, estates, or mauzas, parganas, and zillas, in a schedule, of which a form is annexed, showing in detail the several classes to which the land belongs.

9. The several classes of lands will be coloured pink, yellow, purple and green, respectively, in the plans, and the exact purpose to which each parcel of land is to be devoted will be noticed in the schedule.

10. Detached portions of land should be referred to some fixed point on one of the main sheets, with such distances and compass or other bearing as will enable the land to be identified at once. A corresponding entry should also be made on the main sheet to draw attention to the detached portion.

11. The general correctness of the plans and schedules of the Railway Engineers being attested by the Consulting Engineer to Government, the application will be forwarded to, and dealt with as may be necessary by, the Revenue authorities under the orders of the Local Government. The Revenue Officers are to be held strictly responsible for the regular adjustment, by Railway Companies, of all charges on account of land to be determined in the manner above explained.

12. A complete set of land plans should be recorded in the Chief Engineer's Office of each Railway, and a copy forwarded to the Consulting Engineer to Government, by whom a duplicate will be given to the Revenue Board, which, in turn, will supply Collectors of districts with transcripts of parts included in their respective zillas. When it may be found expedient, in order to expedite the making over of the land, to employ a special Land Commissioner for this duty, the Railway Engineers should supply an additional copy of the land plan for the use of the Land Commissioner.

13. The Consulting Engineer to Government and local Revenue authorities will, respectively, be held responsible for the punctual fulfilment of the foregoing orders in the several departments, and for the careful record of plans in their respective offices.

14. All contemplated changes in the land in possession of a Railway Company should be promptly reported by the Railway Agent to the Consulting Engineer to Government, who will notify the same to the Local Government. It will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records, and for carrying out all further proceedings that are requisite on such an occurrence.

15. It will be necessary for the Local Government to see that a correct register and record of title of all Railway lands is maintained, for the whole of such lands will one day revert to the Crown. Also, that all rents or payments for clearances, &c., chargeable on behalf of Government against the Railway Company are duly realized.

16. It is essential that there should be for each Railway one set of plans in a regular sequence to show all the land, and that the plans of each Railway Company's estate after they have once been prepared, should constantly be corrected, and always be maintained complete.

FORM OF SCHEDULE.

Plan. Sheet No. \_\_\_\_\_

Railway \_\_\_\_\_

District \_\_\_\_\_

Schedule of land required for the use of the Railway in—

Village, \_\_\_\_\_

Pargana \_\_\_\_\_

District \_\_\_\_\_

Number on Plan.	Purpose* for which re-quired.	PAYABLE BY GOVERNMENT.			PAYABLE BY RAILWAY COMPANY.
		A. (Pink.)	B. (Yellow.)	D. (Green.) :	C. (Purple.)
		Land for permanent occupation by Railway Company.	Land for temporary occupation by Railway Company.	Land to be occupied by Government permanently.	Land for occupation by Railway Company, permanently or temporarily.

Consulting Engineer to Government.

Chief Engineer, \_\_\_\_\_ Railway.

Extracts from Circular No. 27 of 23rd September 1869.

PUBLIC WORKS DEPARTMENT.

(RAILWAY.)

(Modifying the Rules issued in Circular No. 55 of 29th June 1861.)

RENT FOR CLASS C. LANDS.

1. The Government of Bombay represents that the rules laid down by the Government of India, as to the mode in which the rents for C. Lands should be calculated, will, if acted upon, lead to some loss of Government money, and recommends that rent should not, in all cases, be determined by the same rule.
2. The Bombay Government is of opinion that, for Government land leased for house building, a fixed rent, irrespective of the classification of the soil and district, or locality should be charged, and that, where money has been paid for the surrender of a lease, 5 per cent. on the amount of compensation should be added to the rent.
3. For land taken up for houses, from private owners, 5 per cent. per annum on the purchase-money is considered by the Bombay Government to be a fair arrangement.
4. For land required for ballast pits, quarries, &c., the Government of Bombay thinks that the Company should be called upon to pay the full amount spent for the acquisition of the property, plus a nominal yearly rent during occupation, the proceeds from the sale of the land, when surrendered, being credited to the Company. For Government land, a yearly rent should be charged to cover deterioration, in addition to the cost of resumption, if any. The Chief Commissioner of Oudh also points out that any possible deterioration of the C. Lands, by reason of the purposes to which they may be put, does not appear to have been provided for in the rules last issued. This was referred to in the Circular Orders of 1861, on the subject of Railway lands, and was not provided for in the last rules through inadvertence.
5. The references may be met by an additional rule, and the following rules should accordingly, be promulgated in supersession of those issued with Circular No. 2 R. of 1869 :—
  - I.—The annual rent on lands in Class C. occupied by a guaranteed Railway Company, shall be fixed at 5 per cent. on the outlay incurred by Government in taking up the land, plus any revenue or rent payable to Government in respect of the said land.
  - II.—But in the case of land already belonging to, and in the occupation of the Government, the rent shall be fixed at 5 per cent. on the value of the land as estimated by the Collector.

III.—In the event of the land being required for purposes through which its letting value will be diminished, the Railway Company, on relinquishing it, shall pay, in addition to any rent paid during the occupation of the land under the previous rules, the estimated difference between the actual value of the land when relinquished and the value that the land would have had if the rent remained at the amount that was paid during the occupancy of the Company.

IV.—When land presented in free gift by a private individual for the purposes of a Railway is made over to a guaranteed Railway Company in Class C. no rent shall be charged by Government beyond the jama or revenue previously paid to Government for the land.

6. With reference to Rule III., it is observed that the real value of the land to the Government, before it was handed over to the Company, would be properly estimated on the basis of the rent charged for it. But when land has been actually paid for by the Company already, as in Bombay, no re-opening of the old transaction should take place, and the adjustment can be made when any land is given up.

7. Compensation paid for surrender of a lease, or any other charge, should be considered in fixing the rent. If the land is not in the occupation of the Government, and cannot be transferred to the Company without charge of any sort, it comes under Rule I.

8. It is optional to the Government of Bombay to fix the rent under Rule II. at Rs. 5 per acre for agricultural land occupied by houses of the Company's staff, or at any other amount it may deem desirable.

#### APPENDIX K.

*Extract from Circular No. 21 of 12th October 1881.*

#### PUBLIC WORKS DEPARTMENT.

#### (RAILWAY.)

*(Modifying Circular No. 10 B., dated 25th August 1878.)*

#### RULES FOR ACQUISITION OF LAND FOR STATE RAILWAYS.

I. The general course of procedure laid down in the Public Works Code, Chapter XV., paragraph 92, is to be followed on State Railways.

II. Railway officers shall not obtain possession of land whether by purchase, lease or on simple toleration, except through the proper Revenue authorities.

III. Engineers in preparing land plans for submission will divide their applications under two heads, viz. :—

(a) *Land required permanently, or land necessary for the railway when it is opened for public traffic, and when the works of construction are finished.*—Such lands are the sites of bridges, embankments, cuttings, fences and other works, the cess or berm introduced for the sake of safety between the limit of the works and the adjacent spoil bank, *básár* or side cutting; roads permanently required, such as those immediately in the neighbourhood of stations, over-bridges, under-bridges, or level-crossings on the railway; land or water required for the water-supply; land wanted for the preparation and reception of such materials as are used in maintenance, as ballast pits; land for the permanent diversion of water-courses; and all space permanently required at the stations, whether for traffic, storage, workshops, dwellings or recreation.

(b) *Land required temporarily or land necessary to be taken up, but not permanently wanted.*—Such land will be for loads for access to works while in progress, but which will subsequently be abandoned; land for side-cuttings and spoil banks occupied during construction; for the preparation and reception of materials used in constructing the railway, as brick fields, quarries, ballast pits, or the temporary diversions of streams and highways. The sites of such dwellings as will be occupied only during construction will also come in this class.

IV. The land to be taken up permanently for the through line of railway will be in the first instance, sufficient for a double line, so as to allow of a cart road to exist parallel to the railway *inside* the fence. This road will be useful not only during construction for service purposes, but afterwards for access to the stations, for maintenance purposes, and for stacking materials.

V. The boundary of the railway land permanently acquired is in every case to be considered as the outside edge of the ditch. Beyond the ditch a clear space or berm of not

less than 6 feet must be left free from the spoil bank or side-cutting nearest to the railway, the cutting or bank being sloped off at an angle of not less than 2 to 1 to prevent any encroachment on this berm from the effects of weather. It will be seen from the section that the width of land to be permanently acquired for a line on the 5 feet 6 inch gauge will be for embankments 70 feet, for cuttings 76 feet, in addition to the width required in each case for the bases of the slopes. For a line on the metre gauge the widths will be embankments 64 feet, for cuttings 70 feet, in addition to the slopes.

VI. Land to be taken up temporarily will be principally for side-cuttings and spoil banks, and will generally adjoin the land required permanently; it will as a rule be also permanently taken up by Government and subsequently disposed of when no longer required.

Embankments under 3 feet in height will only require side-cutting on one side of the railway. Slopes of side-cutting will be generally 2 to 1 all round, but care must be taken to provide for exceptional cases when a flatter slope may be needed. Similarly, the contents of cuttings under 3 feet high will be laid to spoil on one side only. Side-cuttings should not be too deep;—a depth of 6 feet may be estimated for in calculating the width of land required for side-cuttings. They should be formed into well-defined tanks of moderate length; and should not as a rule be connected with each other or with adjacent water-courses. Valuable land should not be taken up for side-cuttings or for temporary purposes. A sufficient water-course should be provided at right angles to the centre line of railway for each culvert or bridge, and on either side of this water-course land will be left clear of the side-cuttings sufficient to prevent the water from the river running into the side-cuttings. The precaution of leaving land uncut in this manner is necessary to prevent the formation of a dangerous stream parallel to the railway.

VII. In the neighbourhood of towns or other places where land is above the ordinary value, the width of land to be taken for slopes, fence, &c., must be specially considered to secure economy.

VIII. All land will be applied for in continuous portions and shown when practicable mile by mile, or village by village, on each sheet. The plans will be drawn to a scale of 400 feet to an inch; the centre line of railway will be shown divided into chains of 100 feet, and all dimensions will be figured in feet. The name of each zilla, pargana and mouza will be shown on each sheet. On curves the tangential point on the centre line will be marked, and the radius of curvature given. The areas in acres, roods and poles will be recorded in accordance with fiscal divisions in a schedule in the form appended to these Rules, showing in detail the class to which the land belongs and the purpose to which it is to be devoted. Land required permanently will be colored pink; temporary land will be colored yellow.

IX. Detached portions of land should be referred to some fixed point on one of the main sheets with distances and compass or other bearings, or such reference to the published maps of the neighbourhood as will ensure a ready identification of the land:—a corresponding entry should be made on the main sheet to draw attention to the detached plot.

X. As a general rule, three complete sets of land plans and schedules will suffice for record, viz.,—one for the Engineer in charge of the railway; one for the Local Government or Administration; and one for the Revenue authorities; but should more be required, they will be supplied by the Railway Engineers.

XI. The general correctness of the plans and schedules submitted by the Railway Engineer in charge being attested by the Engineer-in-Chief or Manager of the State Railway, the application will be forwarded to the Revenue authorities, and will be dealt with by them under the orders of the Local Government or Administration.

XII. The land plans and schedules will be rectified from time to time as changes occur, and Local Governments will see that a correct register of all railway lands is maintained.

XIII. When land is no longer required for the Railway, it will be re-transferred to the Revenue authorities and disposed of by them. All contemplated changes in the land occupied by a railway should be reported to the Local Government; and it will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such changes in their records and for carrying out all further requisite proceedings.

XIV. In Native States all land will be obtained through the Political Agent, and the distinction of temporary and permanent need not be observed; but this will not make it the less incumbent on the officials concerned to see that all land not permanently required for the purposes of the railway is restored when no longer wanted, and to keep as complete records of the land retained for railway purposes in Native States as in British territory. Such plans and schedules as the Political Agent may require will be supplied by the Railway Engineers.

## FORM OF SCHEDULE REFERRED TO IN RULE VIII.

Plan No. \_\_\_\_\_

District \_\_\_\_\_

Schedule of land taken for the use of the Railway in Zilla \_\_\_\_\_

Pargana \_\_\_\_\_

Mouza \_\_\_\_\_

No. of PLANS.	PURPOSE FOR WHICH REQUIRED.	CLASS A. (COLOURED PINK.)			CLASS B. (COLOURED YELLOW.)		
		Occupation, permanent.			Occupation, temporary.		
		Land for the regular works of the Railway, including land for high roads and rivers, &c., &c.			Land for excava- tions, spoil, and for contin- gencies of con- struction, for dwelling-houses, &c., &c.		
		Acres	R.	P.	Acres	R.	P.
Total...							

\_\_\_\_\_  
Superintending Engineer.\_\_\_\_\_  
Consulting Engineer to Government.

## APPENDIX L.

No. 206.

REVENUE DEPARTMENT.

Bombay Castle, 13th January 1879.

The following letter from the Officiating Secretary to the Government of India, Home Department, Public, No. 2—27, dated 4th instant, is published for general information:—

"A case has recently been brought to the notice of the Government of India, in which the Civil authorities had proposed to cut a railway embankment with the object of letting off flood waters, the overflow of which threatened to cause much damage and loss. It seems desirable that district officers should be instructed not to order the destruction of any railway embankment or bridge, or other large work, whether it be the property of the State or of a private company, without first taking the advice of some responsible professional officer. As a rule, the engineering authorities charged with the control of the work concerned should be consulted.

2. I am accordingly directed to request that, with the permission of His Excellency the Governor in Council, you will be good enough to cause all Civil officers to be instructed in the sense of these remarks. In any case of difference of opinion respecting the property of the State, the point at issue should, if time permit, be promptly referred to the Government of India for decision."



PART III.

RULES UNDER THE LAND IMPROVEMENT ACT, 1871.

*Under Section 18.*

1. Advances under these rules will be made from such sums as the Governor General in Council may from time to time allot to the Government of Bombay, or as may be otherwise at their disposal, for the purpose of such advances.

2. Applications for advances under the Act shall be made in writing. They shall be presented to the Collector of the district, to the Assistant or Deputy Collector in charge of the sub-division, or to the Mámlatdár in charge of the táluka in which the land to be improved is situated.

The personal attendance of the applicant is not necessary.

3. The application shall state—

- (1.) The name, caste, parentage, profession, and residence of the applicant.
- (2.) The amount of the advance applied for.
- (3.) The nature and description of the work for which the advance is required.
- (4.) The security offered for the repayment of the advance.

In the case of an application for an advance exceeding Rs. 1,000, the application shall further state—

- (5.) Whether the applicant proposes to supplement the advance by any private capital, and, if so, to what extent.
- (6.) The estimated total cost of the proposed work, and the probable period that will be occupied in its construction.
- (7.) The village and local revenue sub-division in which the land to be benefited is situated; the position, character, and area of such land; and should it consist, in part or wholly, of numbered and measured fields or plots, the numbers of the same.
- (8.) The applicant's rights or interests in the land to be benefited and in any other land offered as security for repayment of the advance, and whether there are any, and, if so, what incumbrances on such rights or interests.
- (9.) The advantages expected to result from the work.
- (10.) The manner and extent to which the proposed work will affect (favourably or injuriously) adjoining or other lands.

(11.) The amount and number of the instalments by which the advance is to be repaid, principal and interest, and the dates on which these instalments are to be paid.

4. When the application is for an advance not exceeding Rs. 1,000, the officer to whom it is presented shall ascertain, so far as may be possible, from the oral statements of the applicant, or otherwise, the particulars numbered (5) to (11) above. These particulars shall be recorded on, or on a paper to be attached to, the application, and shall be signed by the officer, read over to the applicant, and acknowledged by him to be correct.

5. If the application be for a sum exceeding Rs. 1,000, and it be found to have omitted any of the particulars required by Rule 3, the officer receiving it may either return it for correction, or at his discretion proceed as required by Rule 4 in the case of applications for sums not exceeding Rs. 1,000.

6. The statements under head (8) of the heads mentioned in Rule 3, whether contained in the application or recorded under Rule 5, shall at once be tested, as far as may be possible, by reference to such records bearing upon them as may be accessible to the officer to whom the application is made.

7. If the officer receiving the application be not authorized by Government, under section 3 of the Land Improvement Act, to exercise the powers of a Collector under the Act, he shall forward the application to the Collector of the district, who shall either dispose of it himself, or refer it to an authorized officer for disposal.

8. If the Collector or other such authorized officer as aforesaid (hereinafter called "the Collector") considers that there is *prima facie* reason to believe that the application should be granted, he shall cause it to be entered in the register of applications, and shall order a local inquiry to be made. If he is of opinion that the application should not be granted, he shall reject it.

9. There shall be a local inquiry in every case. It shall be conducted by such persons and according to such rules as the Government may from time to time prescribe, and shall be directed to testing and verifying the statements required by Rule 3 to be entered in the application, or by Rule 4 to be recorded by the officer receiving the application.

If the officer receiving the application has been unable, in his examination of the applicant under Rule 4, to obtain information under any of the headings (5) to (11) of Rule 3, the omission shall be supplied by the person making the local inquiry.

10. When the work to be undertaken will cost more than Rs. 5,000, and is one requiring professional skill, the applicant shall be required to submit to the officer making the local inquiry an accurate plan, specification, and estimate. If the applicant is unable to furnish such a plan, estimate, or specification, the Collector may cause them to be prepared

on behalf of the applicant, first requiring him to deposit such sum of money as may, in the opinion of the Collector, be sufficient to cover the cost, or, if he think fit, calling upon him to give security for the repayment of the same.

11. On the completion of the inquiry, the officer by whom it was made shall forward to the Collector the whole of the papers connected therewith, together with his own opinion and recommendation. If the Collector, on receipt of the papers, thinks further inquiry necessary, he may either make such inquiry himself or remand the case to the official who made the first inquiry, or transfer it to any other official authorized to conduct such inquiries for the purpose of a further investigation being made.

12. If, on a review of the local inquiry, the Collector is satisfied that the advance may be properly made, or that a less sum than that asked for may properly be granted, he shall record a decision to that effect. On recording such decision, the Collector may, if the amount of the advance to be made does not exceed the amount within his power to advance, at once grant a certificate for the advance under section 14 of the Act.

13. The Assistant or Deputy Collectors duly authorized to exercise the powers of a Collector under the Act, may make advances not exceeding Rs. 1,000 in each case. If the amount of the advance exceeds Rs. 2,500, up to which the Collector of a district may sanction applications, he shall report his decision to the Commissioner. If the advance does not exceed Rs. 5,000, it may be sanctioned by the Commissioner. If it exceeds that amount it shall be reported to Government, who may grant it if it does not exceed Rs. 10,000. Sums above Rs. 10,000 will require the sanction of the Government of India. The Assistant or Deputy Collector, the Collector, the Commissioner, or the Government may, on perusal of the records of the local inquiry, if they think that the advance should not be granted, refuse to grant it, or may order further inquiry, if they think fit to do so. On receipt of the orders of the authority competent to grant the advance, the Collector or other officer granting it shall issue a certificate for the amount, if it be ordered to be granted.

14. When the Assistant or Deputy Collector or the Collector rejects the application for an advance, his decision shall be subject to appeal to the Collector or the Commissioner, as the case may be, who may, if the amount be within his competence to grant, disallow the rejection and direct the Assistant or Deputy Collector or the Collector, as the case may be, to grant a certificate. If the amount be beyond the competence of such officer to grant, he shall report the case for the orders of the authority competent to grant it. Decisions by Commissioners rejecting applications shall similarly be open to appeal to Government.

15. It shall be competent to the Commissioner, or the Government, to call for the record in any case, and to pass such orders thereon as may be within their competence, respectively.

16. When the advance applied for does not exceed Rs. 1,000, no charge shall be made for serving such notices as it may be necessary to serve under sections 7 and 11 of the Act. When the advance applied for exceeds Rs. 1,000, but does not exceed Rs. 5,000, the serving of any notice which it may be necessary to serve shall be paid for by the applicant at a rate not exceeding half the rate required for the service of a notice by a revenue court in the district in which the land is situate. When the advance applied for exceeds Rs. 5,000, the rate shall be that fixed for serving a notice by a revenue court in the district in which the land is situate.

17. When a certificate is granted, it shall be endorsed by the applicant to the effect that he has understood and agreed to all the terms, and it shall be signed by him in the presence of, and shall be attested by, two witnesses. If any property other than the property of the applicant is pledged or mortgaged as security for the repayment of the advance, the certificate shall be similarly endorsed, signed, and attested by the sureties and witnesses; and if the applicant is a tenant who cannot furnish security of the nature referred to in section 7 of the Act, the certificate shall be signed by his landlord and attested by two witnesses other than the landlord.

18. The certificate shall be retained in the office of the Assistant or Deputy Collector or the Collector, as the case may be; one copy shall be given to the applicant, and when advances are made payable at any taluka or other subordinate district treasury, a copy of such certificate shall be sent to such treasury.

19. Except with the special sanction of the Government, no advance of any sum not exceeding Rs. 500 shall be made, unless it be repayable with interest within seven years from the date on which the advance is made; and no advance exceeding Rs. 500 shall be made without such sanction, unless it be repayable within 12 years from such date. If in any case the proposed period of repayment exceeds 20 years from such date, the sanction of the Government of India to the proposed advance must be obtained.

20. The interest charged on advances shall for the present be  $6\frac{1}{2}$  per cent. per annum.

21. The Government may, subject to the provisions of Rule 20, make rules for the repayment of advances with interest, and for regulating the instalments by which advances may be repaid, and the place and time of repayment. Any person wishing to repay the advance received by him, or instalments of it, at an earlier date than that fixed in the certificate, may do so with the permission of the Collector.

22. All payments shall be made at the office of the Mámílatdár in whose táluka the land to be improved is situated. The Mámílatdár shall keep a register of advances and repayments in such form as the Government may from time to time prescribe for that purpose.

23. Instalments may be suspended by order of the Commissioner for any reason that would justify suspension of the revenue demand.

24. No project shall be divided. After an advance has been sanctioned, and the whole or part thereof expended, a second advance shall not be made without the sanction of the Government.

25. No advance shall be made unless the value of the security offered exceeds the amount of the advance.

26. Subject to the orders of the Government, provision shall be made for the proper inspection of works in course of construction for which advances have been made, and for ascertaining and securing that such advances are duly applied to the purpose for which they were made.

27. The works and any accounts kept of the disbursements upon them shall be at all times open to the inspection of the Collector or other person authorized by him in that behalf.

28. In the case of advances exceeding Rs. 5,000, accounts shall be kept by the recipient of the advance in any form that the Collector may, with the sanction of superior authority, prescribe.

29. If at any time the Collector or the Assistant or Deputy Collector making the advance is satisfied that any person who has received an advance has failed to perform any of the conditions under which it was made, he may, after recording in writing the grounds for the decision he has arrived at, and subject to the control of the superior revenue authorities, proceed to recover from such person, or from any security of such person, under the provisions of the Act, any sums which remain due, together with any interest payable thereon.

30. All works for which advances are made in a lump sum shall be inspected and reported on as soon as possible after the date on which their completion was directed in the certificate. All works for which advances are made by instalments shall be inspected and reported on before each instalment subsequent to the first is paid.

31. No advances shall be given—

(1) to any land-owner who is in arrears for land revenue, or for any advance under the Act;

(2) to any tenant who is in arrears for rent, or for any advance under the Act.

*Supplementary Rules under Section 18.*

1. The local enquiry required by No. 9 of the Rules, published on the 18th April 1877, may be conducted by the Collector, or by any Assistant or Deputy Collector whom the Collector may depute to conduct the same, if the amount of the advance applied for exceeds Rs. 1,000, and by any officer of the Revenue Department, not lower in rank than a Mahalkari, whom the Collector may so depute, if the amount does not exceed Rs. 1,000. And if the amount of the advance asked for does not exceed Rs. 200, and is asked for by any occupier of land to enable him to build up or otherwise complete a well already sunk, and in which water has been found, the local enquiry may, under the order of the Collector, be entrusted to the officiating patel and kulkarni of the village in which the well has been sunk.
2. The officer conducting any such local enquiry shall, at least one week previous to commencing the same, cause a written notice to be stuck up in one or more conspicuous places in the village, town, or city in which the work, for which the advance has been applied for, is proposed to be executed, stating briefly the nature of the said work and appointing the day on which he proposes to hold a local enquiry, and shall require the village officers to make the contents of the said notice generally known, and satisfy himself of their having done so; or, if the village officers themselves make the enquiry, it shall be their duty to make the contents of the notice generally known, and to record their having done so in their proceedings: provided that the officer conducting the enquiry may, on recording his reasons, substitute such other means as he deems fit for securing due publicity to his proceedings.
3. If, for any unavoidable reason, the enquiry is not held on the day originally fixed for the same, the date to which such enquiry is adjourned shall be made publicly known in the same manner as is prescribed by the last rule for the day originally fixed.
4. Every enquiry shall be made in the village town, or city where the proposed work is to be executed (after visiting the place where it is to be executed) in the presence of the parties interested therein, or of such of them as may attend, and of the village officers, and of such other persons as may wish to attend.
5. The officer holding the enquiry shall examine any person likely, in his opinion, to be able to give any such information as he may require, and when such person's evidence cannot otherwise be procured, may issue a summons, at the expense of the applicant, desiring the attendance of such person. The provisions of No. 16 of the Rules of 18th April 1877 shall apply, *mutatis mutandis*, to the charges for serving any such summons.
6. When the enquiry has been completed, the officer conducting it shall prepare, in his own handwriting, a statement embodying—

- (a) as far as possible, complete information, and his opinion on each of the points which, under No. 9 of the Rules of 18th April 1877, he has to enquire into;
- (b) a record of the objections, if any, made by third parties either to the proposed work or to the advance, and his opinion with respect to each such objection;
- (c) any further information which he shall deem to be necessary to enable a proper decision to be arrived at; and
- (d) if the enquiring officer is not himself the Collector, his recommendation as to the manner in which the application should be disposed of.

7. All advances made under the Act shall be repaid in equal half-yearly instalments; and interest, calculated upon the amount outstanding at the time, shall be paid along with each instalment. The first instalment shall be repaid six months after the advance has been made.

The instalments and interest shall be paid at the taluka or mahal treasury before 3 o'clock P.M. of the day on which they fall due, or, if that day happen to be a Sunday or close holiday, before 3 o'clock P.M. of the next working day.

A penal rate of compound interest shall, in the discretion of the Collector, be enforced upon all overdue payments, whether of principal or interest or both.

8. In these Rules the word "Collector" includes any officer authorized to exercise the powers of a Collector under the Act.

**RULES UNDER SECTION 4 OF  
ACT XV, OF 1830.**

[N.B.—These rules have been submitted to Government for the sanction of the Governor General in Council; but as they embody standing orders regarding takávi, they are inserted as useful for reference.]

*As to advances to be made for the purposes hereinafter appearing to holders as defined in Section 3 (11) of the Bombay Land Revenue Code, 1879, of arable land.*

1. Takávi may be granted to holders of arable land for the following objects:— *and agriculture*

- (a) purchase of seed and grain and cattle in seasons of general drought or murrain, or for the relief of distress;
- (b) rebuilding houses destroyed by fire or flood, and digging of wells, storage of water;
- (c) any other further purpose not specified in the Land Improvement Act, 1871, connected with agricultural objects.

2. Every application for advance, if made verbally and not in writing by the applicant, shall be at once reduced to writing by the officer to whom it is made.

3. Every application for advance shall be made to the Collector, Assistant or Deputy Collector in charge of the sub-division, or to the Mámlatdár of the táluka or the Mahálkari of the peta. If the application is made to the Collector, Assistant or Deputy Collector in charge of the sub-division, such officer may, after making such enquiry as he may deem necessary, grant the advance applied for. If the application is made to the Mámlatdár or Mahálkari as the case may be, such officer shall, after making personal inquiry as to the character of the applicant, his ability to give security, and the fitness of granting the application, submit without unnecessary delay the application with his report to the Assistant or Deputy Collector, who shall pass such order thereon as he may deem proper:

Provided that in any case if the advance applied for exceeds the amount up to which the Assistant or Deputy Collector has been authorized to grant advances, such officer shall at once obtain the sanction of the Collector before making the grant; and provided that no advance shall be given to any holder who is in arrears for land revenue, or for any advance paid to him under the Land Improvement Act, except under special order of the Collector, to be recorded with full reasons for granting sanction in his own handwriting.

4. ~~If an Assistant or Deputy Collector rejects an application, or allows a smaller advance than that applied for, an appeal shall lie to the Collector whose award shall be final.~~

~~Similarly, where an application to the Collector is rejected wholly or in part, an appeal shall lie to the Commissioner whose award shall be final.~~



484 Takávi shall be granted on the following conditions of repayment:—

- (a) an advance for the purchase of seed shall be repaid within one year;
- (b) an advance for the purchase of cattle or for any other lawful purpose shall be repaid within two years, or such further period not exceeding ten years as the Collector with the sanction of the Commissioner may see fit to fix.

65 Any person desirous of repaying the whole or part of the advance granted him at any time before the expiration of the period mentioned in the order, may do so.

76 Repayment of advances shall be made by such instalments, including interest, as the officer granting the advance may determine: Provided, that instalments may be suspended by order of the Assistant or Deputy Collector in charge of the subdivision, for any cause that would justify a suspension of the land revenue demand.

87 The yearly rate of interest on advances shall ordinarily be one anna in the rupee or  $6\frac{1}{4}$  per cent., chargeable from the date on which the advance is made; but the Local Government may, at its discretion for special reasons, lower this rate of interest or charge no interest at all, or any part of the interest due.

89. Mortgage bonds, in the form hereinafter prescribed in Appendix A., shall ordinarily be taken from the holders of lands to whom advances are made as security for repayment, and, when the amount is considerable, should invariably be taken.

In all cases in which mortgage bonds are not taken, an agreement in the form hereinafter prescribed in Appendix B., shall be executed.

910. Security of a sávkár should not be demanded for an advance, but in all cases the Collector should take measures under section 140 of the Bombay Land Revenue Code, 1879, to secure repayment of the advance by exercising his priority of claim over the crop; and, when there are several applicants in the same village, they should become security one for the other.

10 When an advance has been granted, the money should be paid by the disbursing officer to the holder of the land or his recognized agent and a receipt taken, but when advances are required for the purchase of cattle, the Collector may take measures to purchase them and hand them over to the applicant. Cattle so purchased should be branded on the <sup>near foot</sup> hoof and shoulder with the letter P.S.

## APPENDIX A.

*(Form for Mortgage of Land under Rule 9 of Rules under Act XV. of 1880.)*

Whereas I \_\_\_\_\_ have this day received an advance of Rs. \_\_\_\_\_ from the Collector of \_\_\_\_\_ on behalf of the Secretary of State for India in Council, for the purpose of \_\_\_\_\_ repayable with interest at \_\_\_\_\_ in equal half-yearly instalments within \_\_\_\_\_ years from this date;

I do hereby mortgage to the said Collector on behalf of the said Secretary of State for India in Council the occupancy right which is at present in my possession and enjoyment, Survey number \_\_\_\_\_ measuring \_\_\_\_\_ acres \_\_\_\_\_ gunthas situated in the village of Táluka \_\_\_\_\_ of this District;

as security for the repayment of the said advance of Rs. \_\_\_\_\_ with interest; the said occupancy right to continue in my possession and enjoyment, on condition that, on my failing to pay any one instalment within \_\_\_\_\_ months of the date on which such instalment becomes due,

or on my transferring by sale, mortgage or gift the said occupancy right to any other person, the said occupancy right shall forthwith become forfeited to Government.

In witness whereof the said \_\_\_\_\_ has signed this deed.

Dated \_\_\_\_\_

Signed by \_\_\_\_\_  
in the presence of \_\_\_\_\_

(Signature).

## APPENDIX B.

*(Form of Agreement under Rule 9 of Rules under Act 15 of 1880.)*

Whereas I, \_\_\_\_\_ have this day received an advance of Rs. \_\_\_\_\_ from the Collector of \_\_\_\_\_ on behalf of the Secretary of State for India in Council for the purpose of \_\_\_\_\_ I do hereby bind myself and do agree to repay the said sum with interest at \_\_\_\_\_ in equal half-yearly instalments within \_\_\_\_\_ years from this date; and in the case of my making default therein I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of Rs. \_\_\_\_\_

In witness whereof the said \_\_\_\_\_ has signed this agreement.

Dated \_\_\_\_\_

(Signature)

*(Form of Security to be subjoined to the Bond of the Principal.)*

We \_\_\_\_\_ hereby declare ourselves Securities for the above said \_\_\_\_\_ that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of Rs. \_\_\_\_\_

Date \_\_\_\_\_

(Signature)

## APPENDIX C.

No. 5222.

*Extract from the Proceedings of the Government of Bombay in the Revenue Department, dated 28th August 1877.*

READ an order of the Government of India in the Financial Department, forwarding, for information, copy of the Resolution No. 2206, dated 28th July 1877.

Read again the following Proceedings in the Financial Department:—

- Accounts, October 1869, Nos. 56 & 57.
- "    "    1873, No. 30.
- "    "    1875, Nos. 27 to 31.
- "    February 1876, No. 56.
- "    March 1876, No. 9.
- Accounts and Finance, May 1876, No. 45.
- "    "    June 1876, No. 1.
- "    "    July 1876, Nos. 47 to 50.
- "    "    October 1876, Nos. 3 and 4.
- Resolution No. 1522, dated 16th March 1877.
- "    "    1170, "    18th June 1877.

Read—

A letter from the Government of Madras, No. 1542, dated the 24th April 1877, soliciting sanction to certain advances of small amounts made to the ryots of Bonvanka and Vundeyoor, in the Ganjam and Madura Districts, for rebuilding houses destroyed by fire; also requesting that general powers may be granted to that Government to make similar advances, subject to such restrictions as to amount and report, as may be deemed necessary.

Read—

Takávi proceedings in the Revenue Department, April 1877, Nos. 1 to 24.

Read—

Despatch from the Secretary of State, received in the Revenue Department, No. 42, dated 10th May 1877.

Read—

A letter from the Government of Madras, No. 1728, dated 18th June 1877, asking confirmation of its orders authorising the Collector of Nellore to make advances to the newly established Municipality of Ongole, to be adjusted when the municipal taxes are realised: and for general sanction to such advances subject to adjustment within the year.

RESOLUTION.—By Resolution in the Financial Department No. 3649, dated 30th September 1869, the Governor General in Council decided that the particular sanction of the Supreme Government for each takávi advance was not necessary, and that it would suffice for the Local Government to obtain sanction for the disbursement of lump sums from time to time on this object.

2. These advances will, in future, be regulated by the Rules framed under the Land Improvement Act, 1871. The rate of interest under these rules is one anna in the rupee or 6½ per cent. per annum.

3. By Resolution in the Financial Department No. 191, dated 12th January 1876, the Government of India decided that, without the special sanction of the Government of India in the Financial Department, no loan of public money shall be made under the provisions of any special law bearing a less rate of interest than 4½ per cent., and no such loan shall be made otherwise, bearing a lower rate of interest than 6 per cent.

4. By orders in the Revenue Department No. 10, dated 21st March 1876, the Government of the North-Western Provinces was authorised to make advances, in any case of emergency for such purposes as the purchase of seeds, grain, &c., without interest, reporting the matter simultaneously to the Government of India.

5. By Resolution in the Financial Department No. 1291, dated the 30th June 1876, it was declared that:—

1st, no advances should be made without the general or special sanction of the Government of India, unless, in any case, the Local Government is empowered by law to make such advances without reference to the Imperial Government;

2nd, regular provision should be made in the estimates for all advances, and no advance should be made without the special sanction of the Government of India, unless funds have been duly provided in the estimates and sanctioned by the Governor General in Council.

6. By Resolutions Nos. 1451, dated the 9th July 1873, 5206, dated 26th August 1874, and 465, dated 26th May 1876, Local Governments were authorised, under certain defined circumstances, to advance money without interest to public servants to enable them to build houses.

7. By Resolutions No. 3687, dated 30th September 1875, and No. 1870, dated 18th June 1877, provision was made for the immediate report to the Supreme and Local Governments of any defaults in the payment of interest upon a loan of public money or in the repayment of its capital amount, and for the levy of compound interest at 6 per cent. upon overdue instalments. A Local Government receiving intimation of such default was also required to explain to the Government of India at once the causes of the default and the steps taken to remedy it.

8. The Governor General in Council considers it expedient now to substitute the following amended and consolidated order for these scattered Resolutions, and, at the same time, to dispose of the two pending references from the Government of Madras, recited in the preamble.

9. Advances made under the *Land Improvement Act*, 1871, are regulated by rules passed by each Local Government with the approval of the Governor General in Council under authority of the Act. Provision for these advances may be made in the estimates of each year, without further sanction by the Government of India, as follows:—

Governments of Madras, Bombay and the North-Western Provinces and Oudh, each	...	...	...	2,00,000
Government of the Panjáb	...	...	...	1,50,000
Governments of Bengal, Mysore and the Central Provinces, each	...	...	...	1,00,000
Governments of Assam, British Burmah and Berar, each	...	...	...	50,000

If any Local Government or Administration wishes to make a larger provision than this, the previous sanction of the Government of India must be obtained. Sums thus provided in the estimates may be disbursed without any further orders by the Government of India than may, in any case, be required by the Local Rules under the *Land Improvement Act*. The yearly rate of interest fixed by these Rules is one anna in the rupee, or 6½ per cent.; but the Local Government may, if in any case it considers it expedient for special reasons, reduce this rate to 4½ per cent., or remit due interest in excess of this rate.

10. The powers of the Local Government under the *Local Public Works Loan Act*,\* 1871, are regulated by Rules published under the Act by Notification No. 3761, dated 18th October 1873.

11. Besides advances under the *Land Improvement and Local Public Works Loan*\* Acts, it sometimes becomes necessary to make loans of public money for the relief of persons suffering from some temporary calamity, as for instance, the destruction of houses, or crops, or seed grain, or agricultural stock, by some calamity of season; or by fire, or flood, or for some miscellaneous object, such as that described in the letter from the Government of Madras, No. 1728, dated 18th June 1877, now read. The Local Governments are authorised to advance money in such cases at their discretion within the following limits:—

			LIMITS OF	
			each advance	all advances during the year.
Governments of Bombay and Madras	...	...	2,500	25,000
Lieutenant-Governors	...	...	1,000	10,000
Chief Commissioners	...	...	500	5,000

The yearly rate of interest upon such advances should ordinarily be, as for advances under the *Land Improvement Act*, one anna in the rupee, or 6½ per cent.; but the Local Government may, at its discretion, for special reasons, make such advances at a lower rate of interest, or even without interest, or remit any part of the interest due upon such advances. It is not necessary generally to make any provision in the estimates for this class of advances the amount of which is never likely to be large, and cannot, ordinarily, be foreseen.

12. The following general Rules should apply, as far as the law and existing Regulations allow, to all the advances to which reference is hereinbefore made:—

(a) The advances should be re-paid in not more than twenty equal half-yearly instalments including interest, the first instalment of principal to be re-paid six months after the loan is completely taken up.

(b) Temporary advances to Municipalities should be re-payable in not more than twelve months.

(c) A penal rate of compound interest not less than six per cent. should be enforced, as far as the law allows, upon all overdue instalments of interest, or principal and interest, and this should not be lightly remitted.

\* Now *Local Authorities Loan Act*, 1879, and the Rules published in Part VI. of this compilation.

(d) Any default in the payment of interest upon a loan of public money or in the repayment of the principal, should be promptly reported by the Account Department to the Local Government, and, if the loan was sanctioned by the Governor General in Council, to the Supreme Government. A Local Government receiving such a report should, in the case of a loan sanctioned by the Governor General in Council, immediately explain the circumstances to the Government of India in the Home, Revenue, or Public Work Department, as the case may be, and the steps which it has taken to remedy the default.

13. No fresh orders are needed about building advances to public officers, which must be regulated, as heretofore, by the Rules in Resolutions Nos. 3123, dated 25th August 1871, and No. 5206, dated 26th August 1874.

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#### APPENDIX D.

N. 6611.

REVENUE DEPARTMENT.

*Bombay Castle, 6th November 1877.*

Resolution of the Government of India, Financial Department, No. 3503, dated 5th October 1877 :—

“READ again :—

The Resolution in this Department No. 2206, dated the 28th July 1877, laying down, in supersession of all old orders on the subject, the procedure for making loans and advances of public money, and for their repayment.

#### RESOLUTION.

In paragraph 9 of this Resolution, Local Governments were empowered to remit, to a certain extent, *interest* on advances made under the Land Improvement Act, 1871, but not any portion of the capital sum advanced. The Governor General in Council is now pleased to rule that, wherever the remission would involve a charge upon Provincial and not Imperial Funds, the Local Government may remit, at its discretion, any portion of the advance made under the Land Improvement Act, 1871, which may be found to be irrecoverable.”

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#### APPENDIX E.

No. 582A.

REVENUE DEPARTMENT.

*Bombay Castle, 11th February 1879.*

The following extract from the Proceedings of the Government of Bombay in the Revenue Department, No. 582, dated 3rd February 1879, is published for general information :—

Read the following Resolution of the Government of India, Financial Department, No. 184, dated 18th January 1879 :—

READ again—

The Resolution in this Department No. 2206, dated 28th July 1877, laying down the procedure for the grant and repayment of loans of public money.

RESOLUTION.—By paragraph 11 of this Resolution, Local Governments and Administrations were empowered to make, at their discretion and for special reasons, small advances at 6½ per cent. interest, with permission to allow even a lower rate sometimes for such objects as the relief of individuals suffering from calamities of season, or for the provision of seed-grain or agricultural stock.

2. In some instances, however, Local Governments have, in anticipation of the approval of the Government of India, made larger advances than they were competent to sanction and at a lower rate of interest than 6½ per cent.

3. His Excellency in Council consequently directs that no more such unauthorised advances shall thus be made in anticipation of approval, and that the rate of interest charged upon such loans shall not, without very special reasons, be reduced below 6½ per cent.

4. The Governor General in Council further is of opinion that in future all such loans shall be held to be made upon the security of the Provincial Revenues, which will be required to make good the principal and interest if the debtor do not pay.

## PART IV.

## RULES UNDER THE INDIAN FORESTS ACT, 1878.\*

*Under Clause 2 of Section 31.*

1. It shall be lawful for the Governor of Bombay in Council from time to time, by notification in the *Bombay Government Gazette*, to prescribe fees for pasturing cattle in the parts of the protected forests of the districts of Kánara, Belgaum and Dhárwár, which have been set apart, by the Forest Department, for grazing; and no person shall pasture cattle in the parts of such forests so set apart without having first paid the prescribed fees to the Conservator of Forests or other officer authorised by him to receive such fees.

*Under Section 41.*

1. All words used in these rules and defined in Act VII. of 1878 (The Indian Forest Act) shall be deemed to have the meaning respectively attributed to them by the said Act.

2. No timber or other forest produce shall be moved into or from any of the districts in the Pre-

\* As regards rules under section 25 of the Act, a committee appointed to consider a draft set of rules relating to village and protected forests reported the following opinion;—

"2. The subjects submitted for our report were—1st, village forests, the remarks of the Government of India upon them and the rules needed for them under section 25 of the Forest Act.

"There are no village forests as constituted by the Forest Act in this Presidency, and it appears to us to be very doubtful whether Government will for some time at least find it expedient to make any forests of this class. In the present condition of forests in Bombay it will, we think, be hardly possible for Government to assign its rights in forest lands to any village community without so much reservation that, as pointed out by the Government of India in paragraph 7 of their letter, it would be more expedient to begin by reserving and to make concessions than to begin by concession and make reservations. In the Southern Division, Government might be able to admit the people in some places to participate in forest privileges, but we question whether the village communities in such situations are sufficiently organized to be dealt with as a responsible body. We think, therefore, that for the present there is no need for any rules providing for village forests under section 25.

"3. 2nd, Protected forests.—This class of reserve appears to have been constituted by the Legislature to meet the case of lands which it is not desirable to subject to rigid conservation in view of public right or convenience, and the tenor of the remarks in the letter of the Government of India leads generally to a conclusion that the recognition of such claims should be as little hampered by rules and procedure as is consistent with conservation.

"4. The Act, moreover, does not require that rules should be made all at once; it contemplates that they should be 'made from time to time.'

"5. The rules submitted to the Government of India were framed, we understand, to meet the requirements of certain forest areas in the Southern Division, and they are believed to embody the departmental procedure in force in those areas; but it is hardly possible that they should be equally applicable in the districts of the Northern Division in which the formation of protected forests is in contemplation.

"6. The conclusion which we have come to regarding the rules for protected forests is to recommend to Government that the reports of the Settlement Officer, the Conservator and the Collector concerned in the formation of protected forests should be awaited, and such rules as may be found requisite in each case should be adopted. It may be that some general rules applicable to all cases may be framed, but as at present informed, we are of opinion that it would be premature to adopt any of those in the draft as of general application." (G. R. 6698 of 18th December 1880.)

sidency of Bombay mentioned in Appendix A. except by the routes therein respectively specified, or by such routes as may be entered in the pass by the Conservator of Forests or by any officer of Government authorised by him in that behalf.

3. No timber or other forest produce shall be moved within any district of the Bombay Presidency, except within the limits of a Reserved Forest (whether a Village Forest or not) or of a Protected Forest,

and, except as is hereinafter otherwise provided, no timber or other forest produce shall be moved from or into any such district,

without a pass from a Conservator of Forests, or from some officer empowered by a Conservator of Forests, or from some person duly authorized under Rule 13 to issue such pass, nor otherwise than in accordance with the conditions of such pass :

Provided that nothing in this rule shall be deemed

(a) to apply to timber or forest produce which is the property of Government, or

(b) to apply to timber or other forest produce, the property of one person, or the joint property of two or more persons, which is conveyed in quantities not exceeding one head-load once in twenty-four hours, or

(c) to require a pass for the removal of any timber or other forest produce within the limits of the village in which it was produced.

4. Every pass issued under the last rule shall specify :

(1) the name of the person to whom such pass is granted ;

(2) the quantity and description of timber or other forest produce covered by it ;

(3) the places from and to which such timber or other forest produce is to be conveyed, and the route by which it is to be conveyed ;

(4) the period for which such pass is to be in force ;

(5) the officer to whom it is to be returned on the expiry of such period, or on the arrival of the timber or other forest produce at its destination, whichever event happens the first.

5. In the case of timber or other forest produce which it is wished to import otherwise than by sea from any place beyond the frontier of British India, no pass shall be issued under Rule 3 unless upon production of a "Foreign Pass" covering such timber, or other forest produce, nor, if such timber be of large scantling, unless it bears a Foreign Property-mark.

6. Every such Foreign Pass must be in a form, and every such Foreign Property-mark must be of a description, which has been registered in the office of the Conservator of Forests of the Division into which it is sought to import such timber, or forest produce, and such Foreign Pass must bear the signature of some officer or other person whose name or

official designation has been duly registered in the said office as an officer or person duly authorized to sign such passes.

7. Any timber or other forest produce which it is wished to import otherwise than by sea from any place beyond the frontier of British India, may be conveyed within such frontier by any of the routes named in Appendix A. or by such routes as may be prescribed by the Conservator of Forests or by any officer of Government authorized by him in that behalf as far as the first depôt on such route established under Rule 15, without a pass under Rule 3, if it is covered, by a Foreign Pass in proper form and duly signed and if, in the case of timber of large scantling, it is marked with a registered Foreign Property mark, but not otherwise.

No such timber or forest produce shall be stacked, or deposited in any place between the frontier and such depôt, or be moved beyond such depôt without a pass issued under the said rule.

8. If the Conservator of Forests of the Division shall so direct, no timber of large scantling, which has been imported as aforesaid by any particular route, shall be moved beyond such first depôt without first having a Government transit mark of such description as the said Conservator shall prescribe stamped upon it.

9. In respect of every pass issued under Rule 3 there shall be payable such fee, if any, as the Conservator of Forests shall, from time to time, prescribe with the previous sanction of Government, for each district, and no such pass shall be issued until the fee so prescribed has been paid.

10. No person who belongs to a community to which a Village Forest is assigned and no inhabitant of a town or village in the vicinity of a Protected Forest, who is permitted to take timber or other forest produce from such forest for his own use, shall be entitled to receive a pass under Rule 3 for the removal of timber or forest produce from such forest to any place beyond the limits of the town or village in which such person resides :

Provided that in the district of Kánara a pass may be issued for moving from the said district any timber which has been given, on payment of the fees to be hereafter prescribed, for a specific purpose, and has been used by the grantee for that purpose,

but only on payment of an additional fee of fifty per cent. on the amount of the fee originally paid, if such timber is being moved by any person other than the original grantee,

unless the Collector, or the Conservator of Forests, or any of their Assistants or Deputies to whom an application may be made in this behalf, shall be satisfied that such timber is being moved for charitable purpose and shall be of opinion that such additional fee should be reduced or remitted,

in which case a pass may be granted either without additional fee or on payment of a reduced fee, as the Collector or other officer aforesaid shall determine.



11. In every other case the owner of timber or other forest produce shall be entitled to receive a pass for the same under Rule 3 for any of the purposes for which such passes may be granted.

12. In the district of Kánara passes under Rule 3 for the moving of timber or other forest produce beyond the inland frontier of the said district will be issued in duplicate, one white and one green, and the date of exit will be recorded upon each of such duplicate passes by the Forest Officer at the appointed watch-house on the frontier, and the green pass shall be surrendered by the holder thereof to such officer, who shall return it without delay to the office from which it was issued.

13. The Conservator of Forests may, if he thinks fit, at any time, by an order in writing :

(a) authorize any person who is an owner of timber or other forest produce, or the agent of any such owner, to issue passes under Rule 3 in respect of any timber or other forest produce which belongs to such person, or to the person for whom such person is agent, and

(b) cancel such authorization.

When the Conservator of Forests authorizes any person under clause (a) of this rule he shall furnish such person from time to time with authenticated books of blank printed forms of passes with the particulars required by clauses (4), (5), and (6) of Rule 4 already filled in, and no alteration shall be made by such person in any of the said particulars, or if made, shall have any validity.

The said person shall pay for each such book such sum as shall from time to time be determined by the Conservator of Forests, and in the event of an order being passed by the Conservator of Forests under clause (b) of this rule, shall at once return to the said Conservator every unused book and every unused portion of any such book then remaining in his possession, and shall be entitled to receive back the amount paid by him in respect of such unused book or portion of a book.

No pass issued by any such person after the issue of an order under clause (b) of this rule and no pass issued by him which is not on a form supplied to him as aforesaid, shall have any validity.

14. Timber or other forest produce in transit may be stopped and examined at any place by any Forest or Police Officer if such officer shall have reasonable ground for suspecting that any money which is payable to Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof.

The person in charge of any such timber or other forest produce shall furnish to any such officer all the information which he is able regarding such timber or other forest produce, and if he is removing the same under a pass shall produce such pass, on demand, for the inspection of such officer, and shall not in any way prevent or resist the stoppage or examination of the said timber or other forest produce by such officer :

Provided always that no such officer shall vexatiously or unnecessarily delay the transit of any timber or other forest produce which is lawfully in transit, nor vexatiously or unnecessarily unload any such timber or other forest produce, or cause the same to be unloaded, for the purpose of examination.

15. The Conservator of Forests may establish at such convenient places as he shall think fit on the routes by which timber or other forest produce may lawfully be conveyed, depôts to which such timber or other produce shall be taken for all or any of the following purposes (namely) :—

for examination previous to the grant of a pass in respect thereof under Rule 3 or under Rule 13, or

for determining the amount of money, if any, payable on account thereof to Government, and for the payment of such money, or

in order that any mark required by law or by these rules to be affixed thereto, may be so affixed.

16. A Forest Officer appointed by or under the orders of the Conservator shall have charge of each such depôt, and no timber or other forest produce shall be brought into, stored at, or removed from a depôt without the permission of such officer, and for storing timber or other forest produce in such depôt, and allowing laden carts, or loads or cattle to stand or be deposited therein, such fees shall be payable as the Conservator of Forests, with the previous sanction of Government, shall from time to time notify.

17. The Conservator of Forests shall from time to time make known by notification published in the *Bombay Government Gazette*, and locally in such manner as he deems fit, the name and situation of every depôt in his division.

18. The person in charge of any vessel which carries timber or other forest produce on a river on the banks of which one or more of such depôts are situated, shall call and stop his vessel at each such depôt which he has to pass, in order that the timber or other forest produce may be examined, if necessary, under the provisions of Rule 14, and the person in charge of such vessel shall not proceed with such vessel past any such depôt without the permission of the Forest Officer in charge of such depôt.

19. No person shall close up or obstruct the channel or any portion of the bank of any river lawfully used for the transit of timber or other forest produce, or throw grass, brushwood, branches, or leaves into any such river, or do any other act which may cause such river to be closed or obstructed.

20. Any Forest Officer not lower in rank than a Sub-Assistant Conservator of Forests may take such measures as he shall at any time deem to be emergently necessary for the prevention, or removal of any obstruction of the channel, or of any part of a bank of a river lawfully used for the transit of timber or other forest produce, but any such case which

is not emergent shall be reported to the Collector, who may by written notice require the person whose act or negligence has caused or is likely to cause the obstruction, to remove or take steps for preventing the same within a period to be named in such notice, and if such person fails to comply with such notice may himself cause such measures to be taken as he shall deem necessary.

The reasonable costs incurred by a Forest Officer or by the Collector under this rule shall be payable to Government by the person whose act or negligence necessitated the same.

21. No person shall establish a saw-pit or convert, cut, burn, conceal or mark timber within one mile of the limits of any Reserved Forest (whether Village a Forest or not) or of any Protected Forest, without the previous written permission of a Forest Officer not lower in rank than a Sub-Assistant Conservator.

22. No timber of large scantling which does not belong to Government shall be moved from any district of the Presidency of Bombay, unless there is affixed thereto a distinguishable Private Property-mark of the owner of such timber of a description which has been registered in the office of the Conservator of the Division, nor (if the said Conservator shall so direct) unless there has been made thereupon a Government transit mark of such description as shall from time to time be prescribed in this behalf by the said Conservator.

23. The Conservator of Forests shall upon receipt of an application for registration of any form, mark, or name for the purposes of Rule 6 or Rule 22, inquire into the authenticity of the same, and if he sees no objection shall, on payment by the applicant of such fee as shall from time to time be prescribed by Government, register such form, mark or name in his office.

Every such registration shall be held good for a period of one year only.

24. No person other than a Forest Officer whose duty it is to use such mark, shall use any property-mark for timber which is identical with, or nearly resembles any Government transit mark, or any mark with which timber belonging to Government is marked;

and no person shall, while any timber is in transit under a pass issued under Rule 13, alter or efface any mark on the same.

25. Nothing in the foregoing Rules 2 to 24—both inclusive—shall be deemed to apply to the Province of Sind.

In that Province the special rules contained in Appendix B shall be applicable.

26. Any person who breaks any of the foregoing Rules 2 to 24—both inclusive—or any of the rules contained in Appendix B shall be punished with imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

27. Nothing in the foregoing Rules 2 to 26—both inclusive—shall be deemed to apply to the City of Bombay as defined in the Bombay General Clauses Act, 1866.

*Under Section 51.*

1. Any person may collect timber of any of the descriptions set forth in section 45 of the Act, and, pending the bringing of the same to the proper depôt for the reception of drift-timber, may keep the same in his own custody, but he shall report his having done so within 24 hours to the nearest Forest Officer.

2. Any person may register in the office of the Conservator of Forests one or more boats for use in salving and collecting timber, on payment of a fee of one rupee for each boat.

Such registration shall hold good for the period of one year only, but may be repeated from year to year.

3. Every person, whether a Forest Officer or not, who collects any such timber, shall be entitled to receive a recompense equal to 15 per cent. of the estimated value of the timber. Such estimate shall be made by any Forest Officer not lower in rank than an Assistant Conservator of Forests, whom the Conservator specially authorizes in this behalf, and the recompense shall be paid at once by Government: Provided that when the timber has been recovered by means of a boat registered for use in salving and collecting timber, the person who collected it shall be entitled to receive a recompense equal to 25 per cent. of its estimated value, and that in special cases the Conservator may increase the amount of the recompense to a sum not exceeding 50 per cent. of the value of the timber collected.

4. If the timber collected shall be proved to be the property of any person other than Government, such person shall be liable to pay to Government, under section 50 of the Act, the following amounts (namely):—

- (1) on account of salving and collecting, the actual amount of recompense paid to the person who collected it;
- (2) on account of moving, the actual cost incurred in moving it to the depôt for the reception of drift timber;
- (3) on account of storing, such fees as shall from time to time be fixed by the Conservator of Forests, with the previous sanction of Government, for the storing of timber at such depôt.

5. No person other than a Forest Officer authorized in this behalf by the Conservator of Forests shall mark any timber, or have in his possession any hammer for marking any timber to which these Rules refer.

6. Any person who breaks Rule 1 or Rule 5 shall be punished with imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

*Under Section 75.*

I. One-half of the proceeds of fines and confiscations under the Act shall be paid by way of reward to the officers and informers through whose instrumentality the conviction was obtained, or the property liable to confiscation was discovered: Provided that the Magistrate who tries any case under the Act may, if he thinks fit, direct that a larger amount than one-half shall be so paid.

When more persons than one are entitled to the reward under this Rule, the Conservator of Forests shall determine the proportions in which it shall be divided amongst them.

2. No person shall cut, lop, or in any way injure, appropriate, or remove any tree, or any loppings thereof, which is the property of Government grown or growing on lands belonging to or in the occupation of private persons; or knowingly and wilfully permit or abet the cutting, lopping, injuring, appropriating or removing of the same by any other person, without having first obtained the permission of the Collector, or, in the case of teak, blackwood or sandalwood trees, of the Conservator of Forests.

*Additional Orders.*

1. It is advisable that the sanad should be examined in every case before forest is allowed to be cut down in inam villages. (G. R. 6457 of 29th October 1881.)

2. Enjoyment of the produce of trees on Government waste land by custom or under a lax system of administration, does not amount to a recognition by Government of a right which the Forest Department must respect.

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. (G. R. 6550 of 3rd November 1881.)

3. For other rulings in Forest cases, see Appendix C of this Part.

4. A Forest officer is a Revenue officer within the meaning of section 8 of the Bombay Salt Act, 1873. (G. R. 907 of 9th February 1882.)

## APPENDIX A. (See Rule 2.)

Routes by which alone timber and other forest produce may be moved into or from any of the following districts (namely) :—

1.—*Thána District.*

1. G. I. P. Railway Line.
2. B. B. and C. I. Railway Line.
3. Bombay and Agra Road.
4. Bombay and Poona Road.
5. Panvel and Campooli Road.
6. Bhor Ghát.
7. Kusr Ghát.
8. Sanján Bandar.
9. Sowta Bandar.
10. Apti Bandar.
11. Dysur Bandar.
12. Manor Bandar.
13. Sayeli Bandar.
14. Morambe Bandar.
15. Battan Bandar.
16. Mori Bandar.
17. Joo Nandruk Bandar.
18. Pishi Bandar.

2.—*Kolába District.*

19. Pen and Campooli Road.
20. Páli and Nágothna Road.
21. Dharamtar and Pen Road.
22. Mahád-Waranda Ghát Road.
23. Mahád and Ratnágiri Road.
24. FitzGerald Ghát Road.
25. Alibág and Revas Road.
26. Pimpri Ghát.
27. Alibág Bandar.
28. Durshet Bandar.
29. Amba Creek.
30. Revdanda Creek.
31. Dige Creek.
32. Sávitri River

3.—*Ratnágiri District.*

33. Ratnágiri-Poládpur Road.
34. Harnai Bandar.
35. Khed—Amboli.
36. Chiplún—Kumbhár Ghát.
37. Amba Ghát—Ratnágiri.
38. Bhowra Ghát.
39. Phonda Ghát.
40. Vengurla—Belgaum.
41. Bánkot Bandar.
42. Anjarle Bandar.
43. Anjanvel Bandar.
44. Jaygad Bandar.
45. Ratnágiri Bandar.
46. Purangad Bandar.
47. Jaytápur Bandar.
48. Viziadrug Bandar.
49. Málvan Bandar.

4.—*Khándesh District.*

50. G. I. P. Railway Lines.
51. Bombay and Agra Road.
52. Taloda-Kukarmunda Road.
53. Shaka-Isarvari Road.
54. All roads upon which Forest Depôts may from time to time be established under Rule 15.

5.—*Násik District.*

55. G. I. P. Railway.
56. Bombay and Agra Road.
57. Bari Ghát Road.
58. Násik-Sangamner Road.
59. Chip Ghát.
60. Kanchan Ghát.
61. Sailbári Ghát.
62. Bábula Ghát.
63. Nándgaon—Aurangabád.
64. Dhond-Manmád State Railway.

6.—*Ahmednagar District.*

65. Dhond-Manmád State Railway.
66. Násik-Ahmednagar Road.
67. Násik-Poona Road.
68. Manmád-Dhond Road.
69. Ahmednagar-Poona Road.
70. Ahmednagar-Aurangabád Road.
71. Akola-Bari Ghát Road.

7.—*Poona District.*

72. G. I. P. Railway Line.
73. Dhond-Manmád State Railway.
74. Málsej Ghát.
75. Brámanwada Ghát.
76. Poona-Násik Road.
77. Poona-Panvel Road.
78. Poona-Pimpri Ghát.
79. Poona and Sátára Road by Kátraaj Ghát.
80. Poona and Sholápur Road.
81. Nira Bridge Road.
82. Supa-Dhond Road.

8.—*Sátára District.*

83. Poona-Kolhápur Road.
84. Shervat-Waranda Ghát.
85. Bhor-Pandharpur Road.
86. Sátára-Pandharpur Road.
87. Sátára-Bijápur Road.
88. Nira Bridge-Pusesávli Road.
89. Umraj-Pandharpur Road.
90. Amboli Ghát-Sátára Road.
91. Tivra Ghát-Sátára Road.
92. Chiplún-Karád Road.
93. Várna Valley Road.
94. Mála Ghát.
95. FitzGerald Ghát.
96. Koyna River.
97. Verna River.

9.—*Sholápur District.*

98. G. I. P. Railway.
99. Sholápur-Poona Road.
100. Sholápur-Secunderabad Road.
101. Sholápur-Bijápur Road.
102. Pandharpur-Bijápur Road.
103. Pandharpur-Pusesávli Road.
104. Pandharpur-Sátára Road.
105. Pandharpur-Phaltan Road.
106. Sholápur-Karmála and Ahmednagar Road.
107. Bársi-Yedshi Road.

10.—*Surat District.*

108. Tápti River.
109. Bándsa—Bilimora and Balsár Road.

110. Dharampur and Balsár Road.  
 111. Auranga River.  
 112. Ambika River.  
 113. Peint, Párdi, and Umarsádi Bandar Road.  
 114. B. B. and C. I. Railway.  
 The roads on which the following Forest Depôts are established, viz. :

1. Wagai.
2. Jakria Bari.
3. Bábulna Ghát.
4. Karjai.
5. Amoonia.
6. Kanchan Ghát.
7. Chip Ghát.

11.—*Panch Maháls District.*

115. Dohad-Pate Road.  
 116. Godhra-Baroda Road.  
 117. All roads upon which Forest Depôts may from time to time be established under Rule 15.

12.—*Kánara District.*

118. Tinai Ghát Road.  
 119. Majali Road.  
 120. Mouth of the Kalinadi River, Sadáshivgad, Kodibág and Kudra Bandars.

13.—*Dhárwár, Belgaum and Kaládgi Districts.*

Every made road maintained from Imperial, Provincial, Local or Forest Funds, and, with the special permission of the Conservator of Forests, any other road,

APPENDIX B. (See Rule 25.)

*Special Rules under Section 41 of the Act for the Province of Sind.*

1. All words used in these rules and defined in Act VII. of 1878 (The Indian Forest Act) shall be deemed to have the meaning respectively attributed to them by the said Act.
2. No timber or charcoal shall be brought within the Municipal limits of the cities of Shikárpur, Sukkur, Rohri and Hyderabad except by the roads and landing-places below mentioned (namely) :—

<i>Roads.</i>	<i>Landing-places.</i>
Shikárpur, A'bad, Melani and Ruk road ...	On the Sind Canal at Lakhi Tor.
Sukkur, A'bad, Meláni, and Shikárpur roads.	Sukkur Bandar.
Rohri—Multan road ...	Rohri Bandar.
Hyderabad—Road over old Phuleli Bridge, road over new Phuleli Bridge, Hajipur road, Gidu Bandar road.	Gidu Bandar, and near Bridge, over the new Phuleli.

3. No person shall remove any timber or charcoal from any Reserved or Protected Forest without a pass signed by the Forest Officer in charge of such Forest, or otherwise than in accordance with the conditions of such pass.

Every such pass shall specify—

- (1) the quantity and description of the timber or charcoal which it covers,
- (2) the name of the person removing such timber or charcoal,
- (3) the name of the Forest from which it is removed, and
- (4) its destination.

4. No person who wishes to remove any timber sufficient to make a cart or camel-load from any land which is not included in a Reserved or Protected Forest, shall remove the same from or to any place within twenty miles from a Reserved or Protected Forest, without obtaining from the holder or manager of the land, or if such land be Government waste land, from the Tapedár of tapa, a written certificate setting forth the quantity and description of the timber to be removed and the date of its removal.

5. No person shall bring firewood or charcoal, the produce of any land not included in a Reserved or Protected Forest, for sale into the cities of Shikárpur, Sukkur, Rohri or Hyderabad without a pass signed by a Forest Inspector, or a Tapedár, and setting forth the quantity and description of the firewood or charcoal covered thereby.

121. Kárwár Bandar.
122. Belikeri Bandar.
123. Ankola Bandar.
124. Mouth of the Gangavali River, Munjgooni, Gangavali, and Gundbala.
125. Mouth of the Tudri River, Tudri, Agnashini, Mirjan, Hegde, Dewgi, Mouki and Oupinputtum Bandars.
126. Mordeshwar Bandar.
127. Mouth of the Venktápur River (Sherali and Venktapur Bandars).
128. Bhatkal River (Bhatkal Bandar).
129. Gersapa Ghát Road to Talgoopa (Gersapa and Honavar Bandars).
130. Siddápur Road to Sorub viá Warda.
131. Sirsi to Sorup viá Banvasi.
132. Sirsi to Sammasgi viá Dasankop.
133. Sirsi to Hángal and Bankápur viá Pála.
134. Katur to Marguddi.
135. Mundgod to Bankápur viá Sauvali.
136. Mundgod to Turrus viá Wargatti.
137. Yellápur to Hubli viá Kirvati.
138. Haliyál to Dhárwár viá Mavinkop.
139. Haliyál to Belgaum—Madanhali.
140. Unshi Ghát Road viá Supa and Shitovde to Belgaum.
41. Supa viá Jagalbet, A'mod and Hemarge to Khánápur.

6. Every person in charge of any timber or charcoal to which any of the last three rules is applicable, shall retain the pass or certificate relating to such timber or charcoal in his possession so long as the same is in transit, and shall, on demand, produce the pass or certificate for inspection by any Forest or Police Officer, and if such timber or charcoal is being conveyed into the city of Shikárpur, Sukkur, Rohri, or Hyderabad, shall produce the pass or certificate at the stations, called "Guard," established on the routes leading to those cities for examination.

## APPENDIX C.

### *Memorandum on the Legal Position of Government in respect of Forests and rights to Trees as ascertained by the results of recent Suits.*

The great principle which is recognized by the courts in all questions as to rights to trees is that the proprietary right to trees follows the property in the soil. Hence wherever it can be shown that land is the property of Government, the immediate inference is drawn that in the absence of any other circumstance which creates a proprietary right in the trees in the landholder the trees belong to Government.

2. Thus in the case of *Govind Purshotam v. the Sub-Collector and Deputy Collector of Forests, Kolába*, (C. Bom. H. C. R., 188, A. C. J.) Couch, C. J., said "this is a case between landlord and tenant. There is nothing to show that the tenancy confers any other right than that of occupying and cultivating the land for 30 years, as guaranteed by the settlement.

\* \* \* The trees are timber trees growing on Government land, and the proprietary right to the trees is derived from the property in the land." The plaintiff's land had been surveyed and settled before the passing of the Bombay Survey Act of 1865, and section 40. of that Act did not apply to his holding, because that section had no retrospective effect. It was not contended that he held the land on any tenure or on any special terms, which implied proprietary right to the trees, and although he relied on Dunlop's proclamation\* and on No. 10† of the old Joint Survey Rules, it appears to have been considered that he was not entitled to the benefit of either of these. This case, which is the earliest of the reported ones of the Bombay High Court on this subject, was decided in 1869.

3. In an earlier case, that of *Ruttonjee Eduljee Shet v. the Collector of Thána and the Conservator of Forests* (10 W. R. 13, Pr. C.) the Privy Council followed the same principle. The plaintiff in that case held the village of Ghátkopur in the Island of Sálsette on a lease granted to him by the Collector of Thána in A.D. 1845, and he claimed the right under that lease to fell unassessed trees in the village, and to apply them to his own use. Their Lordships of the Privy Council said: "At the time when this lease was made, the whole of the land and all the rights connected with the land, subject to such claims as third parties might have upon it, belonged to the Government. The trees upon the land were part of the land, and the right to cut down and sell those trees was incident to the proprietorship of the land. The appellant (plaintiff) therefore \* \* \* must ground his title to these trees and the right to cut them down either upon this, that it is a necessary incident of the lease by reason of the objects of the lease; or *secondly*, upon some positive law; or *thirdly*, under some custom to be incorporated in the lease; or *fourthly*, under the express terms of the lease." And as none of these circumstances, which might affect the general principle, appeared to their Lordships to have been established, they held that the case of the appellant entirely failed.

4. The first question that arises in every case of a disputed right to forests or trees is, therefore, whether the Government is the proprietor of the soil, or the alienee (inámdár) or landholder. In the case of alienated lands the determination of this question sometimes raises difficult issues.

5. The leading case on this point is *Váman Jamárdan Joshi v. the Collector of Thána and the Conservator of Forests* (6 Bom. H. C. R. 199, A. C. J.) In that case the plaintiff (an inámdár) claimed the right to deal as he pleased with the forests in his inám village on the strength of his original sanads from Angria and the Peshwa. It was held by Melvill, J. (Gibbs, J., concurring) that "in a contest of this kind it is surely most just that such a rule as that by which English Courts of Law are guided in the construction of grants from the Crown, should be applied in the most stringent possible manner; and that the plaintiff's sanads should not be construed as conferring a right to the forests, unless such right be conferred in clear and unambiguous terms," and that the sanads

\* See *infra*, para. 17.

† See *infra*, para. 18.



ought to "show plainly and unequivocally that the proprietorship of the land of the village was granted to the plaintiff's ancestor." It was allowed, quoting Westropp J.'s learned judgment in another\* case, that sanadi grants in inám, &c., are "generally speaking more properly described as alienations of the royal share in the produce of the land" (i.e., of the Government revenues) "than grants of land." The sanads in question contained no such words as necessarily indicated a grant of the property in the soil. They did not contain the words common in Maráthi sanads, when the property in the soil is granted, viz., "*jal, taru, tran, páshán, nidhi nikskep,*" (i.e. water, trees, grass, wood stone and buried or concealed treasure.) It was therefore held that they conferred only a right to the revenues of the village, and did not operate as an alienation of the soil and therefore gave the plaintiff no right to the timber growing on the soil ("for," said Melvill, "the owner of the land is owner also of the timber which grows upon the land").

6. In the decision of the *Conservator of Forests v. Nágardás Subháyadás*, known as the Pigonde Case (High Court's Printed Judgments for 1875, pp. 325—332), the same principle was followed. The plaintiff in this instance was a khot of the Kolába District, and he claimed a right to the trees and forests of the villages of Pigonde to the extent of his  $\frac{1}{3}$ th share in the khotki. But although the suit related to a khoti village, the plaintiff based his claim on certain sanads, and the khot, considering that his rights were "laid down with sufficient distinctness in the documents thus propounded by him" did not go into the question of the general rights of khots,† and found that the sanads relied upon did not contain any such words as those above alluded to and were not intended to convey any proprietary right in the soil. This decision has since been confirmed on appeal by the Privy Council (L. R. VII Ind. App. 55). In the judgment of Westropp, C. J., there is the following passage which states the opinion of the Court in very clear language:—

"In *Vykunta† v. the Government of Bombay* decided by my brother West and myself on the 1st May last, we pointed out that when the State grants a village *eo nomine*, without further words, the proprietorship in the soil does not necessarily, or even ordinarily, pass to the grantee, and that the latter only takes thereby the royal share in the produce of the village, or so much of that share as the sanad may purport to grant. Mr. Mountstuart Elphinstone is very clear on that point (see his *History of India*, 4th Edition, p. 74, note)."

There is no part of the judgment in the Kánara Land Assessment Case which states this point in these very distinct terms, but the parts of that judgment to which the Chief Justice has referred are stated by himself in a marginal note to be "12 Bom. H. C. R. App. pp. 1, 33, 34 and especially 39, 40."

7. In this judgment in the Pigonde Case, Westropp, C. J., further observed, with reference to the rule of construction of grants from the Crown that he "adopted the rule laid down authoritatively on behalf of Her Majesty's Privy Council by Sir John Coleridge in *Lord v. the Commissioners of Sydney* (12 Moor P. C. 497). that although their Lordships 'did not intend to differ from the old authorities in respect to Crown grants,' yet they held that 'upon a question of the meaning of words, the same rules of common sense and justice must apply whether the subject-matter of construction be a grant from the Crown or from a subject,' and that 'it is always a question of intention to be collected from the language used with reference to the surrounding circumstances.' If those guides to a satisfactory construction fail, but not otherwise, the ancient rule that 'if the king's grant can enure to two intents, it shall be taken to the intent that makes most for the king's benefit ought to be applied.'" In *Raoji Náráyan Mandlik v. the Mámlatdár of Ratnágiri* (L. L. R. 1 Bom. 523), it was held that "if words are employed in a grant which expressly or by necessary implication indicate that Government intends that so far as it may have any ownership in the soil that ownership shall pass to the grantee," it is not permissible to any body to say that the ownership did not so pass, "unless there are in the grant such detailed provisions as show that such words are limited in their operation." §

\* *Krishnaráo Ganesh v. Rangráo* (4 Bom. H. C. R. I, A. C. J.)

† But although the general rights of khots were not considered in this case, Melvill, J., referring in his judgment in *the Collector of Ratnágiri v. Raghunáthráo bin Rámájiráo Sarve* (H. Ct.'s Printed Judgments for 1875, p. 324) to the decision therein said: "It has been decided in Regular Appeal No. 15 of 1869 (and in this decision we concur) that a khot has no right to cut timber, either as a khot, or by virtue of Mr. Dunlop's proclamation, unless he can prove the grant of a proprietary title in the land of the village."

‡ This is the celebrated Kánara Land Assessment Case reported in 12 Bom. H. C. R. App. 1—224.

§ The law officers of the Government of India have recently considered the applicability in this country of the English rule for the construction of Crown grants in connection with the question of the right of Government to mines and minerals. They hold it to be inapplicable (1) where grants have been made in consideration of a money payment, and (2) where the grants have not been made in exercise of a prerogative (see Government of India's letter to Secretary of State, No. 7, of 1st September 1879, para. 4, published in Supplement to *Gazette of India* of 22nd May 1880, p. 864).

These are all the important decisions hitherto passed on the question of the construction of sanads or other written grants. But it is important to note that it has been ruled that where there has been a formal adjudication of title, the right of the grantee depends, not upon the terms of the original grant, but upon the meaning of the order of adjudication. Thus in *Vásudev Pandit v. the Collector of Poona* (10 Bom. H. C. R. 471), West and Nánabhái Haridás, J.J., held that the plaintiff's title rested, not upon the sanad granting the inám, but upon the construction of the decision passed by the Inám Commissioner under Rule 1, Schedule B. of Act X. of 1852, for continuing the village; and the words in the decision "*baki darobast gáv chálvava*" (let the whole remainder of the village continue) were construed as "an adjudication of all proprietary rights free from exceptions of any kind, except those specified." Original sanads which have of late years been superseded by summary settlement sanads would also, no doubt, upon a similar principle, be left out of consideration, the title of the inámdár be held to depend entirely upon the meaning of the latter sanads. These summary settlement sanads continue inám villages and lands for ever as "the private property" of the holders and it was held in the last-named case (10 Bom. H. C. R., 471), that it was an invasion of the right of an inámdár whose lands had been recognized by Government as his private property to quarry stone or take sand from those lands without his permission or authority. What is there said of quarrying stone or taking sand would apply equally to cutting timber, all these rights being incidents of the general proprietorship of the soil.

9. Alleged proprietary titles are not always based upon written grants. In all cases, however, the spirit of the above rule of construction of grants would, no doubt, be observed in weighing the value of any evidence that might be adduced against the Government. In the Kánara Land Assessment Case (12 Bom. H. C. R. 214, 215, App.) it was said that "if it be the duty of the Court not to enforce the written grant of the Crown unless it be clear and unambiguous, it is not too much to say that at the very least, it is equally incumbent on the Court to ascertain beyond doubt that the Crown has intended to part with its prerogative to which it has succeeded by right of conquest, when the evidence offered in proof of such an alienation is not any grant or sanad or any entry in a Government book \* \* \* but is sought to be spelt out against the Crown from the acts and statements of its officers."

10. The right to trees in lands not held upon any inám tenure but under one or other of the ordinary ancient tenures of the country depends upon the same question, viz., whether the property in such lands belongs to the sovereign power of the State or to the landholder. This question was very thoroughly considered in the Kánara Land Assessment Case. After a full review of the authorities, Westropp, C. J., and West, J., arrived at the conclusion in that case, that "the proprietary right of the sovereign derives no warrant from the ancient laws or institutions of the Hindus, and is not recognized by modern Hindu lawyers as exclusive or incompatible with individual ownership" (12 Bom. H. C. R. 53, App). Under the Muhamadans also the holders of cultivated lands were shown to have been regarded as the owners thereof (*ibid*, 53—57). Proprietorship in the soil was expressly recognized as existing in the bhágdári and narwádári villages in parts of Gujarát (*ibid*, p. 43)\* and it was so strongly stated that there is reason to believe that the *mirási* tenure in the Bombay Presidency carries with it private property in the soil (*ibid*, pp. 46-7, 43, 50, 51 and 70) that there is little doubt that if the point had been directly in issue, it would have been held that mirásdárs also are proprietors† of their lands, just as it was held (*ibid*, p. 1, head note) that the *mulavargdár* in Kánara "enjoys an hereditary and transferable property in the soil."

11. But whatever may be the rights of ryots in respect of their cultivated lands, it is now clearly established that waste lands under the ancient Hindu and Muhamadan laws as well as under the British law now in force in this Presidency, belong to Government. This was clearly laid down in the Kánara Land Assessment Case (12 Bom. H. C. R., 57-9 App.), in Pendse's Case (High Court's Printed Judgments for 1879, p. 276), which will be more particularly referred to in the next paragraph, and in the Kánara Forest Case (I. L. R. 3 Bom. 583-4, 542 and 546-7). The two last-named cases are the two important suits in which respectively the rights of Government to trees in *warkas* lands in the Konkan and in *kumri* lands in Kánara have been recently contested.

12. In *Vásudeo Bháskar Pendse v. the Collector of Thána* (High Court's Printed Judgments for 1879, pp. 274—287) the plaintiff sued "to establish his rights as against the Government to cut down all trees growing upon certain lands held by him in the Narsápur

\* Its existence in tálukdári villages is recognized by section 20, Bombay Act VI. of 1862, as regards villages which have been managed by the Tálukdári Settlement Officer, and a Government Resolution extended the same recognition to tálukdári villages which did not come under management.

† In Pendse's case (Printed Judgments for 1879, p. 275) Melvill and Kembal, J.J., said: "If he (the plaintiff) were a mirásdár, we should probably on the authority of Mr. Mountstuart Elphinstone (a) hold that he was proprietor of his estate and of all trees growing upon it."

(a) Revenue Selection, Vol. IV., pp. 159, 160.

or Karjat taluka of the Thána district." He claimed a proprietary right in his lands by virtue of his being a *sutidár*, and he alleged that a *sutidár* in the Konkan was equivalent to a *mirásdár* in the Deccan. Melvill and Kemball, J.J., who decided the case, felt "no doubt that there is such a tenure as a *suti* tenure," but were unable on the imperfect evidence before them to determine "whether a *sutidár* in the Konkan has the same proprietary title in the soil of his estate as a *mirásdár* in the Deccan."\* But they deemed it unnecessary to decide this point,† because (owing to a mistake in the conduct of the suit in the District Court) the plaintiff's right to the trees in his rice fields had been conceded by Government, and it was clear that it "was only in respect of plaintiff's rice fields that any *suti* tenure could be set up," the "*warkas* land never being entered in the Government accounts as *suti*, but being carefully distinguished from it."

13. The judgment of the High Court in this case was therefore limited to a consideration of the respective rights of Government and of the plaintiff in his *warkas* lands. *Warkas* is defined in the judgment as being "land on which, in accordance with the mode of cultivation in use in the Konkan, the cultivators cut grass, brushwood and branches of trees to be burned as manure (*ráb*) on their rice fields. This and not cultivation is the use to which *warkas* land is ordinarily appropriated; but patches of such land or from time to time used for raising scanty crops of inferior grain." The important points determined with respect to such lands are:—

(1) that *warkas* lands must be regarded to all intents and purposes as waste lands and, therefore, according to the settled law concerning waste lands, belong to the State;

(2) that neither the use, with the acquiescence of Government, of defined portions of such lands for obtaining manure, nor the occasional and sporadic cultivation for several generations of patches of such land can be held to create a proprietary title.

14. The claim in the Kánara Forest case (I. L. R., 3 Bom. 452—785) although of very much greater magnitude in its extent, was very similar in its nature to the above. Kumri cultivation consists in the clearing and cultivating of spots in the jungles or forests, which after a season or two are again abandoned for other similar spots. The judgments recorded by Green and West, J.J., in the case are extremely lengthy and complicated, and as the suit related principally to questions of a purely local nature, they have been summarized in a separate memorandum. But the following points of general applicability may be noted as having been determined in it (*viz.*):—

(1) That under British rule the principle from which we must start is that waste lands belong to Government (*ibid*, p. 584).

(2) That the levy of a tax does not necessarily make a proprietor, but that to levy money from a ryot on account of any land implies a knowledge that he is there and in some way beneficially connected with it (*ibid*, pp. 578, 586).

(3) That for whatever purpose land may be used, tacit acquiescence by Government in its occupation wherever definitely invited and plainly manifested, has the effect of creating decisive test of ownership (*ibid*, 578-79).

(4) That mere temporary occupation of spots in a forest "without appropriation of any spot for more than some months or a year" is not necessarily a property or possession (*ibid*, 581).

(5) That as there must be certainty in a grant as to the area conferred, so there must be certainty as to area, or at least as to the identity of the object occupied, if the occupation is to raise the presumption of a grant, or of acquiescence in a definite occupation. There must be the "essential elements of possession, a fixed, a definable, an exclusive occupation, \* \* \* present to the perception of the parties" (*ibid*, 585).

(6) That the acquiescence of Government in the levy by another person of fees for the cultivation of land within limits which that person claimed as his own, and the fact of Government's refraining from levying such fees direct and assessing such person's income from the fees levied by him, must be held to mark Government's recognition of such person's ownership (593, 636).

(7) That "a property in the soil must not be understood to convey the same rights in India as in England." Under one system an ownership may subsist unimpaired side by side with a limited right in exercise of which acts may be done which under another system would be regarded as contradictions of any ownership (*ibid*, 715).

\* The plaintiff also made some attempt to establish his proprietary title on the ground of his being a "*pánderpasha*;" but the Court held that *pánderpashas* had no greater proprietary rights than any other occupant, the only privilege they enjoyed being a certain remission of the Government assessment, and even that privilege had been discontinued since A.D. 1864.

† In a later case, however, between private parties, *Wáman Bhiwáji v. Vináyak Rámchandra Lakshmanji* (High Court's Printed Judgments for 1879, p. 429) the same Judges said that "*sut*" is a "term which may be taken to be equivalent to the '*mirási*' in the Deccan, and to 'mean and of which the holder is proprietor subject to the payment to Government of a certain defined share of the produce.'

15. Failing proof of absolute ownership of the soil, an attempt is sometimes made to establish a prescriptive or customary right to the trees on Government lands. This, however, it has now been ruled, cannot be done. In *Váman Janárdan Joshi v. the Collector of Thána and the Conservator of Forests* (6 Bom. H. C. R. 201, 202, A. C. J.), Melvill, J., held (Gibbs, J., concurring) that the plaintiff could not acquire by prescription a right to dispose as proprietor of all timber growing on another's land. Again in *Vásudeo Bháskar Pendse v. the Collector of Thána* (High Court's Printed Judgments for 1879, p. 278) the same Judge, (Kemball, J., concurring) said, it is clear upon authority that if the soil be the property of another, the plaintiff cannot, either by custom or prescription, acquire an unlimited right to cut down trees growing upon that soil. "A *profit a prendre* in another's soil cannot be claimed by custom, however ancient, uniform and clear the exercise of that custom may have been" and "an unlimited *profit a prendre* on another's soil cannot be claimed by prescription."

16. West, J., held to the same effect in his judgment in the Kánara Forest Case (I. L. R. 3, Bom. 640-641), but he pointed out that "the right to cut timber is" nevertheless "separable as a legal notion, from the residual ownership with which it is usually joined in England; and in this country the reserve of the forests or of timber trees of special value by the State in a grant of land is a general and well understood incident of the estate thus granted. In Gujarát it is not unusual for the owner of trees and the owner of the soil in which they grow to be different persons. This custom may have sprung from the Mahomedan law. It does not necessarily follow, therefore, from the cutting of trees by the Government that the Government asserting an unqualified ownership of the soil, extruded every private claimant." That particular rights over, or in respect of, the trees in certain lands may exist without carrying with them an absolute right of property over the whole is illustrated in the Pigonde Case (High Court's Printed Judgments for 1875, p. 332), in which the Chief Justice said: "A practice for the khot to charge fees to other persons for cutting firewood does not, in my opinion, afford any solid ground for contending that he had any right to teak or other valuable trees. It might as well be contended that a right to firebote in England conferred upon the tenant a right to cut down oak and other valuable trees."

17. Both in the South Konkan and the Kánara Districts, certain proclamations (in the South Konkan Dunlop's proclamation of A.D. 1824, and in Kánara Harris' proclamation of A.D. 1823) are relied upon by the landholders as giving them rights to timber. The two proclamations which are very similar are to be found quoted at 8 Bom. H. C. R., 2 A. C. J., and I. L. R., 3 Bom. 728, respectively. With respect to the former it was admitted for the plaintiff in the Pigonde Case and the principle of the admission was endorsed by the Court (see Kemball, J.'s judgment., p. 327) that unless a khot was proprietor of his land, it neither conferred upon, nor confirmed to, him any rights in the timber trees; and it was also held in the Kánara Forest Case that the latter related only to timber in proprietary estates (I. L. R., 3 Bom. 690-691). In *the Collector of Ratnágiri v. Venkatráo Náráyen Sarve* (8 Bom. H. C. R., 1 A. C. J.), it was argued on behalf of Government that Dunlop's proclamation had been cancelled by a subsequent Government notification issued in 1851; but it was held "that Government cannot, by issuing a subsequent proclamation, resume a grant made by a previous proclamation, inasmuch as it cannot, any more than a private person, without the consent of the donee, revoke a gift actually made."

18. In *Vásudeo Bháskar Pendse v. the Collector of Thána*, when it had been held in the first place that the *warkas* lands in dispute were the property of Government, and therefore that the trees standing on them were *prima facie* also the property of Government, the plaintiff endeavoured to establish his title in virtue of "special grants and recognitions made by Government from time to time." The decisions recorded by the Court upon the various points thus raised are only applicable to the district of Thána, and some of them, perhaps, to certain *tálukas* only of that district, but as indicating the nature of the questions which arise in such cases, it may be useful briefly to state them here. The Court held that—

- (1) in the Thána district, previous to the introduction of the Revenue Survey—
  - (a) the felling of teak trees was universally prohibited and the right of Government to do this was never questioned;
  - (b) the right to all other trees standing upon, or to be afterwards planted upon their own lands was conceded to the occupants;
  - (c) *warkas* lands were treated as Government waste and not as private lands;
  - (d) the right of cultivators to take "*ráb*" from *warkas* lands for manuring their rice fields was recognized; but
  - (e) they were prohibited from felling trees of certain specified descriptions, although permitted, as a favour, to cut common wood for domestic use but not for trading purposes;

(2) there is considerable confusion about the introduction of the Joint Survey Rules into the Konkan, but Captain (now Colonel) Francis' order for introducing them must either be held to have been unauthorized and invalid, or else that order and a subsequent order issued by him for modifying Rule X.\* must be taken as constituting a single proceeding, so that either Rule X. was not introduced into the Konkan, or it was introduced with a reservation of the rights of Government in certain trees ;

(3) the present intentions of Government and of the Legislature appeared from Government Resolution No. 6646, dated 27th November 1875, and from the Bombay Land Revenue Code Bill (a) to be to reserve teak and black-wood trees only, and therefore that the plaintiff's title to cut trees in the *warkas* land of which he is survey occupant extends to all trees except these ;

(a) See section 40 of the Revenue Code, which has since become law.

(4) as regards *warkas* land in the plaintiff's occupation but not included in any survey number, he is not entitled to cut down any trees.

19. In unalienated lands which are not the property of their holders and which have been subjected to a survey settlement, the rights to trees are now defined by section 40 of the Bombay Land Revenue Code.

Applicability of section 40 of the Revenue Code.

J. R. NAYLOR,  
Remembrancer of Legal Affairs.

#### APPENDIX D.

Two questions have been submitted to Government for decision :—

*First*—Whether any land other than forest land or waste land which is the property of Government or over which the Government has proprietary rights or to the whole or any part of the forest produce of which the Government is entitled can be constituted a reserved forest under the provisions of Chapter II. of Act VII. of 1878 ?

*Secondly*—Whether the rights referred to in Section 9 of that Act include right of way or right to a water-course ?

2. On the first question it is quite clear that Chapter II. relates to forest land or waste land described in Section 3 and to no other land.

3. Section 3 specifies what land it shall be lawful for the Government to constitute reserved forest ; namely, forest and waste land belonging to Government. The words "any land" in Section 4 cannot include any other land than what it is lawful for the Government to constitute a reserved forest. The Government cannot notify cultivated lands, whether alienated or unalienated, as forest reserves, except by first acquiring all the rights of ownership and converting them into waste lands. The object of Section 10 is to meet the case of any claim that may possibly be made of private ownership in or over such forest land or waste land or any portion thereof as is notified under Section 4, and to empower the Forest Settlement Officer to exclude such land from the proposed forest or obtain a surrender of it from the claimant or acquire it under the Land Acquisition Act, 1870.

4. With regard to any land other than forest land or waste land belonging to Government, if required for the purposes of the Forest Act, 1878, Section 83 provides that it can be treated as required for a public purpose and dealt with under the Land Acquisition Act, 1870. When such land has been so acquired it becomes with all rights in or over the same public property, subject always to the right of way and all other rights of the public or of individuals legally subsisting. If Government does not dispose of it in any other way or for any other purpose, it becomes waste land belonging to Government, and may be constituted a reserved forest in the manner provided in Chapter II of the forest Act.

5. On the second question right of way and right to a water-course are included in the rights referred to in Section 9.

6. The Forest Settlement Officer is appointed to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within the specified limits of the proposed forest, and to deal with

\* No. X. of the Joint Survey Rules was as follows :—

" Proprietors of *inam*, *judi* and *miras* 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."

Captain Francis' order for modifying this rule in the Konkan was as follows :—

" Clause 10 provides that the proprietor of a field has the right to cut down trees growing in the field. Such right must be understood to exist in this *peta* : but this clause does not authorize the felling of trees which are under the conservation of Dr. Gibson, the Conservator of Forests ; they should be preserved as hitherto."

the same as provided in Chapter II. He has, therefore, two principal duties to attend to; first, to make a proper inquiry; and, secondly, to dispose of the claims in accordance with the provisions of the said chapter.

7. His enquiry is to be made not only into all claims duly preferred, but he is to search for the *existence* of any rights which are not claimed by examining Government records, taking the evidence of persons likely to be acquainted with any such rights, and personally surveying and mapping out the proposed forest.

8. The rights so contemplated are classed as follows :—

- (1.) Right of pasture.
- (2.) Right to forest produce.
- (3.) Right of way.
- (4.) Right to water-courses.
- (5.) All other rights in or over any land.

9. Section 10 provides how the Forest Settlement Officer shall deal with the last class of rights.

10. Sections 11, 12, 13, 14 and 15 provide how the Forest Settlement Officer shall deal with the first and second classes of rights.

11. The third and fourth classes relate to certain incorporeal hereditaments or easements attaching to the land which is the property of Government. It is obvious that when once after due inquiry a claim to any such right is admitted, or when once the existence of any such right is discovered, the fact of the right is sufficiently established.

12. Where no claims are preferred in respect of these rights, it is undoubtedly the duty of the Forest Settlement Officer not to overlook their existence and not to neglect to make every possible enquiry to ascertain whether any such rights do exist. It depends on the Forest Settlement Officer to prevent any hardship occurring to villagers living near proposed forests in respect to the use of public pathways or of water-courses in the forests; and it is not likely that any such rights, where they are clearly defined and ascertainable, will become extinct through the operation of Section 9. Any right of this description which is so obscure as not to be claimed at the proper time, or to come to knowledge after careful search has been made, cannot be of much worth.

13. It is clearly the intention of the Legislature that all existing rights of way or to water-courses should be carefully ascertained and preserved intact unless it is found convenient to stop such ways or water-courses and substitute others for them, as provided by Section 24.

14. Any person who shall enter a forest except by such public or private way will be a trespasser. An unlawful entry on another's land is a trespass; but it is not an offence punishable under the Penal Code, which only contemplates the offence called "criminal trespass," *i. e.*, trespass with intent to commit an offence or to annoy the person in possession. But unlawful entry on a reserved forest is a forest offence punishable under the Forest Act, 1878. (G. R. 3112 of 31st May 1881.)

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#### APPENDIX E.

*(Rules for the assignment of land for Kumri cultivation).*

- (1) The period of fallow should never be less than ten years after cultivation for two.
- (2) Personal inspection should annually be made both by the Collector and the Assistant Collector with a view to ascertaining that the prescribed limits of the Kumri assignment in each case have not been exceeded.
- (3) Kumri assignments should, as far as possible, never be allowed within 100 yards of streams running as late as December, and on the upper third of the slopes of hills.

(See G. R. 5319 of 9th August 1882.)

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PART V.

RULES UNDER THE BOMBAY IRRIGATION  
ACT, 1879. - VII

I.—APPLICATION FOR WATER FOR IRRIGATION.

1. Applications for water for the purpose of irrigation must be made in duplicate to the Executive Engineer for Irrigation of the Division, or to some other canal officer duly empowered to receive such applications, in the form of Appendix No. I., blank copies of which will be supplied to intending applicants free of charge.

Applications under section 27 how to be made.

When the land to be irrigated is held jointly by two or more holders, the application must be signed by each of such joint holders.

One copy of the application will be retained by the Executive Engineer or other officer aforesaid; the other will be returned with columns 10 and 11 filled in by the Executive Engineer, or other officer aforesaid, to the applicant or applicants.

Applications for water for any purpose other than irrigation may be made in the form of an ordinary letter addressed to the Executive Engineer for Irrigation, or other officer aforesaid.

2. The Executive Engineer, or other officer aforesaid, after instituting due inquiry, may either reject the application, or comply with it, either in its original form, or subject to such amendment as the applicant at his suggestion accepts: Provided that—

Applications may be rejected or complied with wholly or in part.

(1) in every case in which he rejects the application, the Executive Engineer, or other officer aforesaid, shall report his proceedings to the Superintending Engineer for Irrigation for confirmation, to whom also an appeal shall lie against his order;

(2) no owner of a water-course or other person entitled to a supply of water under section 21 (d) shall be refused the supply to which he is so entitled.

3. Except in the case named in the second proviso to the last preceding rule, no application for water for irrigation will be entertained unless the land to be irrigated is demarcated by a clearly distinguishable boundary and has been prepared for irrigation.

Applications only to be entertained for certain lands.

4. All crops for which applications are received between the 15th January and the 15th October will be classed as *kharif*. Those for which applications are received after the 15th October will be classed as *rabi*.

Periods within which applications should be made.

Applications for wet *kharif* crops (such as rice, &c.) should be made before the 1st May, and for *rabi* crops before the 15th November.

Applications for water for monsoon dry-crops may be submitted at any time, but applications received before the 1st of May will have priority over those subsequently made.

Priority of grant of applications.

In all other cases, applications for water shall be complied with, as far as possible, according to their priority.

5. The decision of the Executive Engineer on applications for water from each water-course should be given on the spot, as far as possible, in the presence of all applicants, who should receive notice to attend.

Executive Engineer's decisions on applications to be given publicly.

6. If, from any cause, the water-supply from a canal proves insufficient to meet all the accepted applications for water, all questions regarding priority of right to receive the available water, and the quantity and regulation of supply, shall be finally determined by the Executive Engineer for Irrigation of the Division: Provided always that the claims of those applicants whose applications were made before the 1st May for *kharif* crops, and before the 15th November for *rabi* crops, shall have priority over those subsequently made.

Priority of right to water when supply proves deficient.

## II.—CLOSING OF CANALS FOR REPAIRS, &c.

7. No canal shall be closed for the execution of any repairs, alterations, or additions thereto, except in cases of emergency, without the previous sanction of the Superintendent Engineer for Irrigation, who shall fix the period, or periods, for which the supply of water may be stopped under section 28 (e) on account of the execution of such repairs, &c. In cases of emergency a canal may be closed, and the said period, or periods, may be fixed by the canal officer of highest rank on the spot.

Except in cases of emergency, canal not to be closed without sanction of Superintendent Engineer.

## III.—WATER-SUPPLY RATES FOR IRRIGATION.

8. The rates leviable for canal water supplied for purposes of irrigation will be fixed at a certain amount per acre, varying according to the kind of crop to be irrigated and the season of the year in which it is to be grown, and according as the water is obtainable from the canal by lift or flow.

Rates how to be fixed.

9. When a field receives the first or preliminary watering, and afterwards no crop is sown during the period named in column 8 of the application as that in which the crop for which the water was applied for should ordinarily come to maturity, the lowest rate charge-

Rates leviable when no crop is sown after first watering.



able for lift or flow (as the case may be) will be levied.

10. If mixed crops be grown in the same field, or if different crops be grown in different parts of the same field, the rate shall be calculated on the highest rated crop grown during the period for which water is taken.

Rate leviable when mixed or several different kinds of crops are grown.

11. When the crop first sown fails and is ploughed up and a fresh crop is sown in the same season, the rate shall be levied on that crop only which comes to maturity.

Rate leviable when first crop fails and a fresh one is sown.

12. If only part of a field be irrigated, the rate shall be chargeable on the area of the whole field unless such part shall, from the first commencement of the irrigation, have been clearly demarcated by a ridge not less than half a foot high.

Rate leviable when only a part of a field is irrigated.

13. When a portion of a field has been irrigated with canal-water and a portion with well-water, the rate shall be chargeable on the whole field unless the portion irrigated by well-water shall, from the first commencement of the irrigation, have been clearly demarcated by a ridge not less than half a foot high.

Rate leviable when part of a field is irrigated with well-water and part with canal-water.

If the portion demarcated for the purpose of being irrigated by canal-water has nevertheless been partly irrigated by well-water, enquiry shall be made whether the use of well-water was necessitated by a deficiency in the supply of canal-water, and, if it be shown to the satisfaction of the Executive Engineer that it was so, the rate chargeable on the portion irrigated by canal-water shall not exceed the lift rate.

14. If well-water is conveyed to any land irrigated from a canal in the same channel as the canal-water, the water-rate shall be chargeable on the whole of the land irrigated from such channel: Provided that if it be shown to the satisfaction of the Executive Engineer that the use of well-water was necessitated by a deficiency in the supply of canal-water, the rate chargeable shall not exceed the lift rate.

Rate leviable when well-water and canal-water are conveyed in the same course.

15. The same provisions shall apply to irrigation from escape channels as to irrigation from other parts of a canal.

Provisions applicable to supply from escape channels.

When the supply of water from any such channel lasts continuously throughout the period for which it is required for use, the same rates shall be levied as for a supply from the canal. When the supply is intermittent, such reduced rates shall be charged as may be fixed in each particular case under the orders of Government.

Rate leviable for such supply.

16. If a supply of water is obtained by any person from a canal for the purpose of irrigation without the previous permission of the Executive Engineer for Irrigation of the Division, the rate chargeable for such water shall be double the rate chargeable for the authorized irrigation of the area irrigated, and this rate shall be leviable in addition to any penalty which may be imposed under the Act.

17. Water may be given for the purpose of forming threshing-floors free to holder of canal-irrigated fields, and to others at a charge per floor not exceeding half the lowest acreage rate.

*Water-supply Rates for Non-irrigational purposes.*

18. Water supplied from a canal for any purpose other than irrigation will be charged for by volume, or otherwise at such rate as Government shall from time to time determine.

IV.—OCCASIONAL RATES.

19. The charge to be made under section 45 on account of water supplied through a water-course used in an unauthorized manner shall be as follows (namely):—

- |                                                                                                     |   |                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------|---|----------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(a) if the water so used has flowed on any land and such land has derived benefit therefrom,</p> | } | <p>double the highest rate leviable for a single crop;</p>                                                                                   |
| <p>(b) if the water has flowed on any land but such land has not derived benefit therefrom,</p>     | } | <p>double the rate that would be chargeable under Rule 9;</p>                                                                                |
| <p>(c) in any other case,</p>                                                                       | } | <p>double the rate chargeable under Rule 18 on the volume of water estimated by the Executive Engineer for Irrigation to have been used.</p> |

The above charges will be leviable in addition to any penalty which may be imposed under the Act on the person who unauthorizedly used the water.

20. The charge to be made under section 46 on account of water supplied through a water-course which is suffered to run to waste shall be as follows (namely):—

- |                                                 |   |                                                               |
|-------------------------------------------------|---|---------------------------------------------------------------|
| <p>(a) if the water has flowed on any land,</p> | } | <p>double the rate that would be chargeable under Rule 9;</p> |
|-------------------------------------------------|---|---------------------------------------------------------------|

(b) in any other case, { double the rate chargeable under Rule 18 on the volume of water estimated by the Executive Engineer for Irrigation to have been wasted.

#### V.—REMISSIONS.

21. Remissions of water-rate under the last paragraph of section 31 may be allowed by the Superintending Engineer for Irrigation, and may extend to the whole or to a part only of the rate, as he shall in each case think fit.

22. Claims for such remissions shall be preferred to the Executive Engineer for Irrigation of the Division direct; and, if not so preferred within one month from the time when the damage in respect of which the remission claimed is alleged to have occurred, shall not be entertained.

If, without giving the Executive Engineer at least seven days' notice in writing of his intention, the claimant cuts the crop alleged to have been damaged at any time within 20 days after preferring his application, his claim shall not be entertained.

23. If the application be preferred within the period prescribed by the last rule, the Executive Engineer shall, within 20 days after the date of its receipt or within the period of the notice, if any, given to him under the said rule, make or cause to be made a local inquiry, at which he or any person acting under his special order in this behalf shall be present, and the result of which shall be recorded on the application, which, together with the opinion of the Executive Engineer, shall then be forwarded to the Superintending Engineer for disposal.

The order passed on the application shall be communicated to the applicant by the Executive Engineer.

24. Remissions of water-rates may also be granted, at his discretion, by the Superintending Engineer for Irrigation, on reasonable cause being shown and after due inquiry for any loss caused by deficiency or excess in the supply of water when such deficiency or excess has been occasioned by some act or omission of a canal officer and independently of any act or omission of the person chargeable with the rate.

Applications for the remission of excess charges and on account of excess charges, on account of water-rates shall also be disposed of by the Superintending Engineer for Irrigation, to whom such applications shall be for-

warded for consideration by the Executive Engineer for Irrigation, or by the Collector, through the Executive Engineer for Irrigation.

25. Any claim for remission of water-rate not falling under Rule 21 or 24 shall be reported by the Collector, through the Commissioner of the Division, for the orders of Government in the Irrigation Department.

Other claims for remission to be reported to Government.

26. Intimation of remissions under Rules 21 and 24 will be communicated by the Superintending Engineer for Irrigation to the Examiner of Public Works Accounts and the Executive Engineer for Irrigation in statements prepared in the form of Appendix No. II.

Intimation of remissions to whom to be made.

The Executive Engineer for Irrigation shall keep a register of all authorized deductions from water-rates in the same form.

#### VI.—RECOVERY OF DUES.

27. A return of measurements and assessments in the form of Appendix No. III. shall be prepared by such subordinate canal officer as shall from time to time be deputed to this duty by the Executive Engineer for Irrigation of the Division and submitted to the Executive Engineer, who, with the aid of his establishment, shall test at least 10 per cent. of the measured areas.

Return of measurements and assessments to be prepared.

28. The Executive Engineer shall, from the Register and Return Nos. II. and III., frame a statement of demands for water-rates according to the form of Appendix No. IV., which he shall forward, together with copies of the Register No. II. and of the Return No. III., to the Collector. This statement shall be rendered on 15th December for *khariif* and on 1st May for *rabi*.

Statement of demands to be rendered to the Collector.

29. On receipt of the demand statement the Collector shall issue instructions for the recovery of the amounts therein named from the persons respectively liable for the same.

Collector to issue instructions for recovery of demands.

The rates for *khariif* shall be payable on the 1st February and those for *rabi* on the 15th June. They shall be payable, each in one instalment, to the revenue officers to whom the land revenue is payable by persons holding land in the villages in which the persons liable therefor respectively reside.

Rates when and to whom payable.

30. If any objection is raised before the Collector, or any of his subordinates, as to any entry in the said statement, such objections shall be forwarded by the Collector,

Objections to entries in the statement how to be disposed of.

through the Executive Engineer for Irrigation of the Division, to the Superintending Engineer for Irrigation for disposal under Rule 24, if it has reference to some action on the part of the Irrigation Department; otherwise it shall be disposed of by the Collector, or, subject to the law and rules in force relating to the recovery of arrears of land revenue, by his subordinates.

If the decision of any such objection by the Collector, or any of his subordinates, results in the remission of any portion of any charge entered in the demand statement, the result shall be communicated by the Collector to the Executive Engineer for Irrigation of the Division, and shall also be shown in the return No. VII. to be submitted, under Rule 37, to the Examiner of Public Works Accounts.

If in consequence of objection Collector remits any portion of a demand, his order to be communicated to Executive Engineer.

#### *Appeals.*

31. Every order passed by an Executive Engineer for Irrigation under Rule 13 or 14 shall be appealable to the Collector, and every order passed by any such officer under Rule 19 or 20 shall be appealable to the Superintending Engineer for Irrigation: Provided always that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

Appeals against orders under Rules 13, 14, 19 and 20.

32. All appeals preferred under the Act or under these Rules must be made by written petition signed by the appellant. Such petition may be delivered at the office of the authority appealed to by the appellant in person during office hours, or be forwarded through the post.

Manner of preferring appeals.

#### MISCELLANEOUS.

33. Applications for free grants of water-supply shall be referred for the orders of Government in the Irrigation Department, and no such grant shall be made without the previous sanction of Government.

Free grants of water-supply.

34. In cases of dispute regarding water-supply, or remission, or abatement of water-rate, the water-gauges and meters set up by the Irrigation Department, shall, if certified by the Executive Engineer for Irrigation of the Division to have been in good order during the period to which the dispute relates, be held to furnish authoritative data for all calculations of discharge.

Readings of water-gauges and meters set up by Irrigation Department to be accepted as authoritative.

Certain acts forbidden to canal officers, &c.

35. No canal officer or other officer or subordinate in the Irrigation Department shall—

- (1) acquire, directly or indirectly, any share of interest in the distribution of water from any canal; or,
- (2) purchase, or bid either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any Government property in, on, or appertaining to any canal.

Breach of this rule shall be punishable with a penalty under section 61, clause (9) of the Act.

*Returns, &c.*

36. The Executive Engineer for Irrigation shall furnish an annual return, for Annual Returns Nos. V. and VI. *khariif* and *rabi* respectively, as per form of Appendix No. V., to the Superintending Engineer for Irrigation and to the Examiner of Public Works Accounts on the same dates on which the statement of demands (No. IV.) is sent, under Rule 28, to the Collector. He shall also furnish the Superintending Engineer and the Examiner of Public Works Accounts with a general return, as per form of Appendix No. VI., on the 15th April of each year.

37. The Collector shall furnish the Superintending Engineer for Irrigation, through the Executive Engineer for Irrigation of the Division and the Examiner of Public Works Accounts, with annual returns in the form of Appendix No. VII., for *khariif* and *rabi* separately, on the 15th April of each year, showing the water-rates and miscellaneous revenue assessed and realized in the Civil Department.

38. When separate water-rates have not been fixed by Government, but a consolidated soil and water-rate is levied, the Collector shall furnish the Superintending Engineer for Irrigation, through the Executive Engineer for Irrigation of the Division and the Examiner of Public Works Accounts, with an annual general return of consolidated revenue in the form of Appendix No. VIII. as soon after the close of the revenue year as possible.

39. The Collectors in Sind shall furnish the Superintending Engineer for Irrigation in Sind and the Examiner of Public Works Accounts, on 15th April of each year, with returns in the form of Appendix No. IX. for *khariif* and *rabi* respectively, of receipts from "*haccaba*" on *jaghir* lands, and of miscellaneous receipts from canals; and the Collectors in Gujarat and the Deccan shall furnish similar returns in cases where separate water-rates are recovered, as per Survey Register and credited to Government in the Irrigation Department.

*Additional Orders.*

1. Under section 44 of Bombay Act VII. of 1879 water-rates are leviable from inámdárs as well as from Government occupants on account of increased water-supply owing to the improvement of an existing reservoir. In the case of irrigated inám lands which were assessed and recorded as dry-crop at the first survey settlement, there can be no difficulty in applying section 44 to the levy of water-rate on account of improved supply from these lands if they now take the Government water. But there may be some difficulty in dealing with lands which, at the original settlement or in summary settlement sanads, were assessed and recorded as irrigated. There may in such cases be a doubt or contention as to the extent to which the amount or duration of the water-supply has been increased by the improvement. If the supply, having formerly lasted up to the end of January, has by the improvement become perennial, the improvement is clear and decided, but if the supply which previously lasted up to the end of January is now stated to have been extended by the improvement,—say, up to the middle of March,—care will be necessary not to over-estimate the extent of the improvement to the injury of the inámdárs. In such cases Government in the Revenue Department are of opinion that the powers given by section 44 of the Irrigation Act should be used with caution. (G. R. 3706 of 28th June 1881.)

2. The right to the water of a river flowing in a natural channel through a man's land, and the right to water flowing to it through an artificial water-course constructed on his neighbour's land, do not rest on the same principle. In the former case each successive riparian proprietor is *primâ facie* entitled to the unimpeded flow of the water in its natural course, and to its reasonable enjoyment as it passes through his land, as a natural incident to his ownership of it. In the latter, any right to the flow of the water must rest on some grant or arrangement, either proved or presumed, from or with the owners of the lands from which the water is artificially brought, or on some other legal origin. (Law Reports, VI. Indian Appeals; p. 33.)

APPENDIX No. I.

CANAL

Form of Application for Water for Irrigation.

To The EXECUTIVE ENGINEER for IRRIGATION, \_\_\_\_\_ DIVISION.

I, A.B., resident of \_\_\_\_\_ Taluka \_\_\_\_\_, in the \_\_\_\_\_ District, make this application for the supply of water from the above canal for the purpose of irrigating the undermentioned crop on the land hereinafter described \_\_\_\_\_, (namely):—

Survey Number.	Village.	Mile.	Distributing Channel Number.	Area of Field to be irrigated.		For what Crop required.	Date from which water is required.	In how many months from such date crop should come to maturity.	Crops sown on this land during the previous year.	Order of the Executive Engineer as to whether the application is granted or not.	Water-rate to be charged per acre if application is granted.
				Acres.	Gunthas.						
1		3	4	5		6	7	8	9	10	11

Dated the \_\_\_\_\_ 188 \_\_\_\_\_  
Witnesses.

(Signed) \_\_\_\_\_ Applicant.  
(Signed) \_\_\_\_\_ Executive Engineer.

Columns Nos. 1 to 9 to be filled up by applicant. Nos. 10 and 11 by the Executive Engineer.  
Application to be made in duplicate—one for applicant, the other for Executive Engineer.

NOTE.—Under Rule III. of the Canal Rules no application for water will ordinarily be entertained unless the field to be irrigated is demarcated by a clearly distinguishable boundary and has been prepared for irrigation.

APPENDIX No. II.

No. \_\_\_\_\_  
नंबर } \_\_\_\_\_

{ CANAL.  
{ कालवा.

Form of Register of authorized Deductions from Water-rates, Kharif (or Rabi) Season, 188 -8

Taluka.	Village.	Survey Number.	Person to whom allowance made.	Remissions.		Free Grants.		Total Deductions.	REMARKS.
				Acres.	Water rate.	Acres.	Water rate.		
तालुका.	गांवाचें नांव.	सर्वे नंबर.	ज्या इतमाला द्यावयाचें त्याचें नांव.	एकर.	पाण्याचा दर.	एकर.	पाण्याचा दर.	एकंदर कमी केलेला पैसा.	शेरा.

{ 18  
{ १८  
{ Executive Engineer, Division.  
{ एक्सिक्यूटिव्ह इंजिनियर. दिव्हिजन.

PLAN V.]  
( 110 )  
IRRIGATION.



APPENDIX No. III.

Form of Return of Measurement and Assessment.

No. }  
नंबर. } \_\_\_\_\_

\_\_\_\_\_ } CANAL.  
\_\_\_\_\_ } कालवा.

Village }  
गावाचे नांव } \_\_\_\_\_

Taluka }  
तालुका } \_\_\_\_\_

District }  
जिल्हा } \_\_\_\_\_

} Kharif (or Rabi) Season, 188 -8

Number. नंबर.	Survey Number. सर्वे नंबर.	Distributing Channel. पाट.		Registered Occupant or Holder. मालक.	Cultivator. लागवड करणारा.	Measurement (Field). शेताची मोजणी.				Produce. उत्पन्न.	Water Rate per acre. पाण्याचा दर प्रत्येक एकरास.	Water Rate for each Field. पाण्याचा दर प्रत्येक शेता- करिता.	Amount due by each Cultivator. प्रत्येक लागवड करणाराकडे झालेली रकम.	REMARKS. शेरा.
		Mile. मैल.	Number. नंबर.			Length. लांबी.	Breadth. रूंदी.	Area in Acres. क्षेत्रफळ एकर.						
								Flow. प्रवाहाने.	Lift. मोटें, राहाटाने, वगैरे.					

NOTE.—Return for Kharif to be printed in blue ink. Return for Rabi to be printed in red ink.

CERTIFICATE BY EXECUTIVE ENGINEER REGARDING MEASUREMENT TESTS.  
मोजणीविषयी एक्झिक्यूटीव इंजनीअरकडून खात्रीचा दाखला.

18  
१८

Measurer.  
मोजणारा.  
Overseer.  
आम्हरसीयर.  
Executive Engineer.  
एक्झिक्यूटीव इंजनीअर.  
(Division.  
डिविजन.)

Executive Engineer.  
एक. एंजि.

IRRIGATION.]

( III )

[PART V.

Form of Statement of Demands for Water-rates for Irrigation.

No. of the Measurement Statement.	Village.	Táluka.	Water-rate.			Deductions.			Net amount to be realized by Collector.		
			Rs.	a.	p.	No. †	Rs.	a.	p.	Rs.	a.
1	2	3	4			5			6		
		Total ...									

\* Refer to Register No. II. for details.

† Refer to Return No. III. for details.

Forwarded to the Collector of \_\_\_\_\_ for No. \_\_\_\_\_ of 188 realization in accordance with Canal Rule 28, together with copies of the Register No. II. and the Return No. III. herein referred to. \_\_\_\_\_ 188

Executive Engineer for Irrigation, \_\_\_\_\_ Division.

Form of Annual Return of the Area of Irrigation and Water-rate to be collected in the \_\_\_\_\_ District.

No. of Return No. II.	Village.	Táluka.	AREA IN ACRES.			WATER-RATE.			Remissions and free grants.	Net amount to be realized by Collector.	REMARKS.
			Flow.	Lift.	Total.	Flow.	Lift.	Total.*			

Forwarded to the Superintending Engineer for Irrigation \_\_\_\_\_ No. \_\_\_\_\_ of 188 and Examiner of P. W. Accounts in accordance with Canal Rule 36.

\_\_\_\_\_ 188

Executive Engineer, Irrigation, \_\_\_\_\_ Division.

PART V.]

( 112 )

IRRIGATION.

Form of Annual Return of Revenue from all sources during the Official year 188 -8 .

B 514-29

IRRIGATION.]

1	WATER RATES FROM IRRIGATION REALIZABLE BY COLLECTOR.			* MISCELLANEOUS RECEIPTS.										
	Net to be realized.	Remissions and free-grants.	Total.		Sale of Water.	Water-supply of Towns.	Plantations.	Other Canal Produce.	Water Power.	Navigation.	Rents of Buildings.	Fees.	Miscellaneous.	Total.
2	3	4	1	2	3	4	5	6	7	8	9	10	11	
Rabi (Dry-crop) Assessment for 188 -8				Assessments by Ex. Engineer, realizable by Collector during the official year .. .. .										
Kharif (Monsoon crop) Assessment for 188 -8				Assessments by Ex. Engineer, realizable by himself during the official year .. .. .										
				Balance as per last Return Assessments during the year. .. .. .										
				Total .. .. .										
Increase on previous year				Realizations by Ex. Engineers, Taluka .. .. .										
Rabi .. .. .				Do. .. .. .										
Kharif .. .. .				Do. .. .. .										
				Do. .. .. .										
				Do. .. .. .										
				Total .. .. .										
Decrease on previous year				Balance unrealized on 1st April .. .. .										
Rabi .. .. .														
Kharif .. .. .														

( 118 )

No. of 188 . \* Per details on the reverse.

Forwarded to the Superintending Engineer for Irrigation and the Examiner of Public Works Accounts, Bombay, in accordance with Canal Rule 56.

Executive Engineer for Irrigation, Division.

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Details of Miscellaneous Receipts.

Sub-heads and Particulars.	To be realized by Collector.	To be realized by Executive Engineer.

PART V.

## APPENDIX No. VII.

Khari (or Rabi) Season, 188 -8

CANAL

*Form of Annual Return of Realizations of Water-rates and Miscellaneous Receipts during the Official Year 188 -8*

No. \_\_\_\_\_ of 188

Forwarded to the Examiner, Public Works Accounts, Bombay, and the Superintending Engineer, Irrigation, \_\_\_\_\_ in accordance with Canal Rule 37.

188

Collector of \_\_\_\_\_

*Particulars of the demands of Miscellaneous Receipts assessed by the Collector during the Official Year 188 -8*

Sub-heads and Particulars.	Amount.	Sub-heads and Particulars.	Amount.

Kharif (or Rabi) Season.

\_\_\_\_\_ CANAL.

*Annual Return of Realizations of Water-rates and Miscellaneous Receipts during the Official Year 188 -8 .*

WATER RATES.				MISCELLANEOUS RECEIPTS.											
Demands, Collec- tions, and Balances.	Balance of former demands.	Demands received during the Official Year.	Total.	Demands, Collec- tions, and Balances.	Sale of Water.	Water-supply of Towns.	Plantations.	Other Canal Produce.	Water Power.	Navigation.	Rents of Buildings.	Fines.	Miscellaneous.	Total.	Grand Total.
				Balance of former demands .. ..											
				<i>Demands during the year.</i>											
				By Executive En- gineer .. ..											
				By Collector .. ..											
				Total .. ..											
				<i>Realizations.</i>											
				April 188 .. ..											
				May .. ..											
				June .. ..											
				July .. ..											
				August .. ..											
				September .. ..											
				October .. ..											
				November .. ..											
				December .. ..											
				January 188 .. ..											
				February .. ..											
				March .. ..											
				Total .. ..											
				Balance unrealized.											

\* The realizations made during the year against "Balance of former demands" and "Demands received during the year," should be shown under the respective columns.

Collector of \_\_\_\_\_

IRRIGATION.]

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PART V.

*Detail of Remissions authorized in the Revenue Department.*

Táluka.	Village.	Collection.	Amount.		Cause of Remission and Authority.

*Memo. of Recoveries by Tálukas.*

	WATER RATES.			MISCELLANEOUS RECEIPTS.				Grand Total.	
	Balance of former demands.	Demands received during the Official Year.	Total.						Total.
Total ...									

Collector of \_\_\_\_\_

APPENDIX No. VIII.

Form of Annual General Return of Consolidated Revenue.

No. \_\_\_\_\_

\_\_\_\_\_ 188 .

Statement of Consolidated Revenue for the year 188 -8, in respect of the \_\_\_\_\_ District, forwarded to the Examiner of Public Works Accounts, Bombay, and to the Superintending Engineer for Irrigation, in accordance with Canal Rule 38.

\_\_\_\_\_ DISTRICT.

\_\_\_\_\_ Collector.

Statement of Consolidated Revenue from Irrigation Works for the Year 188 .

Number.	NAME OF WORK.	Total Acres assessed under the Settlement.		Total Acres cultivated during the year.		Assessment of the year.			Remissions during the year.			Total Consolidated Revenue during the year.	Irrigation Share.	Land Share.	Remarks as to how the shares have been arrived at and the authority under which calculated.	
		Kharif.	Rabi.	Kharif.	Rabi.	Kharif.	Rabi.	Total.	Kharif.	Rabi.	Total.					

Notes.—Percentage of the cost of Collecting Establishment during the year of the Collectorate is \_\_\_\_\_

Annas and pies and fractions of an acre omitted.

Land share ..... Rs.

Irrigation share ..... „

Rs.

\_\_\_\_\_ 188 .

\_\_\_\_\_ Collector.

APPENDIX No. IX.

Form of Annual Return of Water-rates, &c., recovered by the Revenue Department.

Kharif (or Rabi) Season.

No. \_\_\_\_\_

\_\_\_\_\_ 188 .

Return for the year 188 -8 in respect of the \_\_\_\_\_ District \_\_\_\_\_, forwarded to the Examiner of Public Works Accounts, Bombay, and the Superintending Engineer, Irrigation, in accordance with Canal Rule 8.

\_\_\_\_\_  
Collector.

Kharif (or Rabi) Season.

Return of Arrears and Assessments, &c., in respect of (1) Water-rates, (2) Miscellaneous Receipts from Canals, &c., in the \_\_\_\_\_ District, Sind, during the year 188 -8 .

CANALS.	WATER-RATE FROM IRRIGATION.								MISCELLANEOUS RECEIPTS.										REMARKS.		
	Assessments.					Remissions during year.			Actual Receipts during year.	Owner's Rates on Irrigated Land.	Sales of Water.	Water-supply of Towns.	Plan-tations.	Other Canal Produce.	Water Power.	Na-vigation.	Rents of Build-ings.	Fines.		Miscel-laneous.	Total actual Receipts during year on account of distinct Water-rates and Miscel-laneous Receipts.
	Unrealized Balance at the end of last year.	Assessment during current year.		Total.	Unrealized Balance at the end of current year.	Remissions during year.															
Amount.	Acres.	Amount.	Amount.	Amount.	Acres.	Amount.															
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	

188 .

\_\_\_\_\_  
Collector.

Part V.]

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IRRIGATION.



PART VI.

**(1) RULES UNDER THE BOMBAY SUMMARY SETTLEMENT ACT, 1863.**

*Rules under Section 2, Clause 3.*

1. An inquiry into the title by which any land held for service is enjoyed may be instituted from time to time by such officer as Government may direct.

2. Lands originally held for service, and which have been continued, or may hereafter be continued, under section 15, Bombay Act III. of 1874; on condition of payment of a certain portion of the assessment thereof in commutation of service, shall continue to be held in accordance with the terms of the sanads issued or hereafter to be issued, in confirmation of the said commutation settlements.

3. Service lands, in respect of which no such commutation settlement has been effected, and which have been already declared by Government, or by any officer acting under the orders of Government, to be resumable on the demise of certain persons, or on the extinction of certain families or lines of descent, shall be resumed accordingly.

4. Service lands which do not fall under either of the two last rules shall be continued, subject to the provisions of Bombay Act III. of 1874, and of any other law for the time being in force relating thereto, to the heirs of the present holders, or in the event of the same being at any time lawfully alienated, to the heirs of the alienees, without restriction as to adoption or female, or collateral succession; but such lands shall be resumed in default of any heir in whom, in the ordinary course of descent, the deceased holder's private property would vest, and shall not be liable to be dealt with under the ordinary law for the time being in force relating to intestate property:

Provided that if Government are at any time satisfied that the service in respect of which any such lands are held is no longer performed, or that its performance is no longer necessary, or that for the service performed the remuneration derived from the profits of the enjoyment of such lands is unnecessarily high, or, in the case of service lands to which the provisions of Bombay Act III. of 1874 do not apply, if it shall appear that the holder has been guilty of any serious offence or misconduct, Government will, in their discretion, direct either (1) the resumption of such lands, or (2) the continuance of the same, subject to such new conditions as they shall deem fit to impose, or (3) the resumption of a portion of such lands and the continuance of the rest thereof, subject to such conditions as aforesaid.

5. When the sanad issued in confirmation of any service commutation settlement expressly authorizes the alienation or transfer of the service lands, the

same shall be continued without question to any lawful holder thereof on fulfilment of the terms of the sanad. But in every other case contemplated by No. 2 of these rules, and in every case contemplated by Nos. 3 and 4 of these rules, if any land held for service shall at any time be or become alienated contrary to the provisions of Bombay Act III. of 1874, or of any other law for the time being in force, or, in the case of land to which the provisions of Bombay Act III. of 1874 do not apply, if the same shall be alienated or in any way encumbered without the previous sanction of Government, the said land shall, if Government deem fit so to direct, be forthwith resumed, anything in the said rules to the contrary notwithstanding.

## RELIGIOUS AND CHARITABLE ENDOWMENTS.

In preventing misappropriation of religious and charitable endowments, the same policy should be pursued in the old provinces to which Bombay Act VII. of 1863 and the new provinces to which Bombay Act II. of 1863 are applicable.\* (G. R. 6411 of 9th November 1876.)

*Rules.*

1. If the sale of lands held free of assessment for religious and charitable purposes under a decree of the civil court has not yet been confirmed, application should be made to the Subordinate Judge under section 311 of the Code of Civil Procedure to set aside the sale on the ground of material irregularity, and, if the court declines to set aside the sale, an appeal should be made. (Under section 313, the purchaser can apply to have the sale set aside, if the person whose property is purported to be sold had no saleable interest therein.)

2. If the sale has been confirmed, proceedings should be taken under section 334 of the Civil Procedure Code; but the Collector should not intervene in case of sales under decree of court which are not recent and appear to be "time-barred." In recent and future cases he should intervene as advised by the Legal Remembrancer, and Government will defray the costs in such cases, if necessary.

3. In cases of private sales and alienations not under decree, and of sales under decree "time-barred," it is not desirable that the Collector should bring a suit to enforce the proper application of the endowment; but he should assist, as far as he can, any person who may wish to bring such a suit, and Government will be prepared to consider the propriety, on the Collector's recommendation, of guaranteeing such a suitor the costs of the suit if decreed against him.

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\*Bombay Act II. of 1863, section 8, clause 3, merely declares the pre-existing common law of this country, that religious endowments, whether Hindu or Mahomedan, are not alienable, though the annual revenues of such endowments may occasionally be pledged for purposes essential to the temple or other institution endowed, but not further or otherwise. (I. L. R. 5 Bom. 393.)

*Order as to Joint Holders with full power of alienation of their rights under Bombay Act II. of 1863.*

Section 11, clause 5, refers to cases of persons holding lands jointly, and in such cases service of notice upon any one of them is made sufficient.

The obvious intention of the Act was to give the Government a right to demand fees or nazrána from any holder who had a power of alienation, whenever that alienation took effect, whether by a transaction *inter vivos*, or by the holder's death. And in this respect the Government is placed by this Act with reference to the holders of land in a position analogous to the position of a lord of a manor to a copyholder tenant under the English law.

The more frequent the alienations are made, and the greater the number of tenants on the court rolls of the manor the larger is the income of the lord of the manor, and the more valuable is his property.

The object of the Act is to provide for an increase of the Government revenues in consequence "of the change of possession of the land or a part thereof by inheritance or transfer."

It is necessary, therefore, to have the names of the holders entered in the Government books according to the exact amount of land over which they have the power of alienation (G. R. 1664 of 6th April 1872.)

*Additional Rulings and Orders.*

1. The provision as to the non-recognition of adoption by a civil court relates only to the question of the assessability of lands when raised between Government and a claimant of exemption. Only Government is entitled to take advantage of the provision.

The Inám Commissioner's decision that a village should be continued to the male descendants of the original grantee, regulates the duration of the exemption, and not the enjoyment of it as between the heirs of the original grantee. (I. L. R. 2 Bom. 529.)

2. An inámdár's power to enhance the rent of mirási tenant is limited. He cannot demand more rent than what is fair and equitable according to the custom of the country.

Unless the terms of his inám grant authorize an inámdár to enclose a piece of land used immemorially as pasture ground by the inhabitants of his inám village, he cannot do so at will merely by virtue of his being an inámdár. (I. L. R. 3 Bom. 147.)

3. There is no provision in Bombay Act VII. of 1863 which enables a landlord or superior holder to distribute the quit-rent among his tenants or inferior holders. (Printed Judgments of 1880, p. 88.)

4. Where a sanad has been granted under Bombay Act VII. of 1863, Government cannot reform it or set it aside without the assent of all parties interested therein. The quit-rent fixed by the sanad is binding alike on Government and the rightful owner, and, if the sanad has been granted through mistake to a person not the rightful owner, the latter may recover the land from the grantee, who will be deemed to have taken the sanad as trustee for the owner. (I. L. R. 4 Bom. 463.)

5. The State cannot by its grants destroy rights in the land which are good against itself. (Printed Judgments of 1880, p. 279.)

6. Mirásdárs who had sanads and have lost them, and those who never had them, may prove their title by other

evidence, and long possession is a strong element in such proof. Perpetuity of tenure may be proved by many means, as for instance, local usage and uniformity of payment of rent or assessment. (I. L. R. 3 Bom. 340.)

7. B., a mirásdár, addressed a rájináma to the Mámldár, resigning certain mirás lands in favour of L. (to whom at the same time he delivered possession of the lands), and containing no reservation or qualification; held that the transfer to L. was complete and the rights of B. wholly extinguished. (I. L. R. 1 Bom. 91.)

8. A mirásdár who has given in a rájináma is entitled to eject the tenant put in possession of his mirás lands by the Collector, provided he sue within the period of limitation and the rájináma contain no stipulation whereby he expressly abandons his mirás rights. (I. L. R. 1 Bom. 208. See also p. 577.)

9. A superior holder cannot raise the rent of his permanent tenant holding at a fixed rent on the ground that the assessment on the land has been enhanced at the Government survey. The civil courts cannot relieve the superior holder from the hardship caused to him by this enhancement, and it is doubtful whether Government (except by legislation) can interfere with contracts made by private persons. (I. L. R. 4 Bom. 473.)

10. A jaghír must be taken, *primâ facie*, to be an estate only for life, although it may possibly be granted in such terms as to make it hereditary. (I. L. R. 3 Bom. 186.)

11. The true sense of such words as "village," "saránjám," ought in every case to be determined by a consideration of all the circumstances, as such words have an almost technical, and therefore an ambiguous, meaning. (Printed Judgments of 1879, p. 14.)

12. The tenants of an inámdár cannot be ejected as mere trespassers. If they are yearly tenants, they are entitled to a clear six months' notice to quit before they can be evicted. If they are tenants for a term of years or for a life or lives, there must be proof of an expiration of the term by effluxion of time or of the falling of the life or lives. (I. L. R. 6 Bom. 70.)

See also the footnotes at pages 8, 13, 19, 20, and 24 of Part I, Land Revenue; the additional notes at page 107 of Part V, Irrigation; at page 88 of Part IV, Forests.

## (2) RULES UNDER THE HEREDITARY OFFICES ACT, 1874

### *Rules under Part I. of the Act.*

*Section 1.*—The meaning of the term “ Regulation Districts ” is defined in the Bombay General Clauses Act X. of 1866.

*Section 4.*—The wide extent of the words “ watan property ” as here defined requires particular notice. The profits of watan property are frequently specially mentioned in particular sections. A right to profits is of course an interest in the watan. The definition of the watan, which includes the hereditary office with its rights and privileges, and the property, if any, attached thereto, is believed to be in accord with the notion conveyed in the popular use of the word. The fact that it is often found that the share in a watan bears no proportion to the share in the land or other watan property, shows the distinction between the two things, *e.g.*, a watandár universally recognized as an eight-anna sharer sometimes has no share whatever in the property. This indicates the abstract meaning of the term watan in ordinary parlance, and this meaning is intended in the definition.

The language used in defining “ watandár ” includes under that term acquirers under the native governments, and those claiming now under such acquirers. It would be inexpedient to re-investigate the title to such acquisitions. As to subsequent acquisitions, the definition only includes those who have acquired them in a *legal* manner; and in determining on this point, it will be necessary to refer to the provisions of Regulation XVI. of 1827 and Act XI. of 1843 and to the Settlement Acts. Fraudulent transfers made contrary to the express provisions of the law cannot be considered legal.

### *Rules under Part II. of the Act.*

*Section 5.*—Any alienation, whether by sale, mortgage or otherwise, to any person not a watandár of the same watan, will in future be illegal, unless a previous sanction of Government be obtained.

*Section 7.*—Without this previous sanction the part of the watan property assigned for the officiator cannot be alienated in any way to any person whatever.

*Section 8.*—Section 8 provides a means by which the Collector can enforce contribution for the remuneration of the officiator in the following circumstances:—

- (a) Where any part of a watan *whatever* or profits have passed by a British decree before the passing of this Act into the enjoyment of any person except the officiator for the time being.
- (b) Where, before the passing of the Act, any part *whatever* of the watan or profits has *without* a British decree passed into the enjoyment of a watandár not being the officiator.

(c) Where *after* the passing of the Act, by means of a British decree, any part except that assigned for the officiator has passed into the enjoyment of any other watandár.

The above three cases may be regarded as exceptions to the procedure provided in section 9, by which a resumption of the property or profits of any part of the watan whatever may be made. Section 9 governs cases fulfilling *all* the following conditions:—

- (1) Alienation before the passing of the Act.
- (2) Without both a British decree and a proper consent by the Revenue authorities.
- (3) To an outsider.

In case (a) the reason of the exception is that although the property may have been illegally alienated, it was by decree of a British court.

In case (b) the reason is that the transfer, though invalid and without a decree, was made from one member of the watan to another.

In case (c) the reason is that the transfer will be from one member to another, and by a decree, of the part not assigned to the officiator. The case is the common one of a partition or succession at Hindu law, where the civil courts define each person's rights.

*Section 12.*—It will be perceived from the above, that by section 8 an alienee who has come into possession of profits of watan property under certain circumstances, cannot be dispossessed by the Collector. Hence, under the definition of watandár the alienee has an interest in the watan and is a watandár, but cannot be entered in the register as a representative watandár unless he has established a customary right to serve. On the other hand, if these circumstances do not exist, the Collector *may*, under section 9, dispossess the alienee of the profits. But this section is not, like sections 10 and 11, which refer to alienations made after the passing of the Act, imperative but permissive only, and it is desirable to lay down some rule for the guidance of the Collector in exercising the power conferred on him by section 9.

The general rule is that alienations effected before the passing of Act XI. of 1843, and in lately acquired territory before the introduction of British rule, shall not be interfered with. The profits thus alienated will, of course, be liable to contribution to the emoluments of the officiator under section 23, and the alienee cannot be registered as a representative watandár unless he has established a customary right to serve under section 26.

Alienations effected since 1843 should not be interfered with when fraud is not apparent, when reasonable consideration was passed, and when the profits have actually been in the enjoyment of the alienee. In other cases the Collector should, according to his discretion, have recourse to one or the other of the two courses laid down in section 12, which section is more fully explanatory of section 9.

*Sections 10 and 11.*—Sections 10 and 11 provide amply against future alienations of an illegal kind. Section 10 applies where the watan is attached or sold by a court. The Collector's certificate leads to the removal of any process attaching the officiator's share, at the instance of any person whatever, and will have the like effect as to the rest of the watan when a transfer has been made to any outsider. The certificate does not apply to property (except that assigned to the officiator) disposed of among the watandárs themselves by a suit *inter se*.

Section 11 provides for summary proceedings by the Collector himself in all future cases not supported by a court's order of (1) alienation of the officiator's share, (2) alienation of any part to an outsider.

The procedure by certificate or resumption under sections 10 and 11 can take effect only where the property affected has been recorded or registered. Hence it will be the duty of Collectors to pay particular attention to those functions.

*Section 13.*—Watan assigned as the remuneration of the officiator and its profits cannot be attached by civil courts. Where this is done by inadvertence, the Collector can cause the removal of the process.

The Collectors should inform all patels and kul-karnis and all the members of watandár families, that it is their duty to bring to notice all illegal alienations of watan or profits, and all invalid attachments or process placed upon them in future.

*Section 14.*—It is not thought desirable that two or more hereditary offices should be combined except for very substantial reasons.

#### *Rules under Part III. of the Act.*

*Section 15.*—This section is intended in the conservative spirit which pervades the Act to give the completest confirmation to settlements in commutation of service already agreed upon by Government and the watandárs. It must be remembered that none of the restrictions against alienations provided by the Act apply to those watans which are to be continued according to the terms of the settlement, whether such terms are consistent with the provisions of the Act or not.

*Section 16.*—With the same desire to avoid interference with ancient rights and customs, the Legislature has let alone whatever rights and duties may exist between watandárs and villagers.

*Section 17.*—It is inexpedient that the present rates and mode of payment in alienated villages should be altered except when serious disputes arise, or the parties agree on a new scale.

*Section 18.*—This section was introduced in order to provide for the legal definition of the rights and duties of the village Mhárs and watchmen, and to lead to a peaceful settlement of the quarrels which at present tend to the damage of the Mhárs, who revenge themselves by poisoning the cattle of the ryots. The section can only be used when application is



made by a person interested. By employing a village pancháyat to deal with these minute and intricate matters, the Collectors are enabled to avoid an annoying responsibility. Government desire to impress on all the Government service the necessity of showing very great patience in using the pancháyat. Experience has shown that many delays and more informalities are tolerated by such a tribunal, and that, without some aid and even judicious supervision, the institution may become too tardy for action. The Government hope, however, that their officers will apply themselves to gaining the great advantage of decisions of pancháyats by exercise of caution and patience, and that the influence of the mámlatdárs and patels will prevent extravagant delays.

The Government are convinced of the necessity of dealing with the village Mhárs and watchmen with the utmost care and caution; it is not at all desirable that the authority conferred by section 18 should be generally used: it will be sufficient to apply it when the disputes grow so high as to lead to fighting, arson, or poisoning of cattle. In fact, it should only be used in the last resort. Generally the ryots and the Mhárs are a fair match for each other: each class is sure to try to interest inexperienced officers in hopes of gaining some petty advantage. A very slight gain in one village will incite the same class in neighbouring villages to petition for settlement—a consequence it is in every way desirable to avoid. Hence the anxiety of Government that section 18 should not be used except under pressing circumstances, and that the decisions when it is used should invariably be those of pancháyats.

*Rule under Part IV. of the Act.*

Section 22.—The creation of new watans and the assignment of lapsed watans are matters belonging to the Government, and require no directions here.

*Rule under Part V. of the Act.*

Section 23.—No new line of action in fixing the emoluments of officiators is indicated, or at present desired.

*Rules under Part VI. of the Act.*

Section 24.—In Part VI. an endeavour has been made to supplement the provisions of the law existing before the passing of the Act, and to give greater form and accuracy, and consequently more binding effect to the registers already instituted by law or departmental orders, or, both combined.

The representative watandár, is by definition a watandár registered by the Collector as having a right to perform the duties.

The ample inquiry which took place before the passing of the Bill showed the extreme difficulty of legislating for the great number of ancient customs and recent practices, which vary much in each province and even district. In some districts Act XI. of 1843 has very recently been applied in such a way as to increase the number of recognized sharers until

the watan has become almost unmanageable. In others very careful inquiries have been made and the results registered, and the shares thus settled have become generally known. It is obviously expedient to deal in different ways with these two classes. While, therefore, section 26 provides that the Collector shall *not be bound* to recognize appointments and sub-divisions made subsequently to the introduction of Act XI. of 1843, which he considers mere practices contrary to the *custom* of the watan, section 73, clause 2, on the other hand, indicates plainly that practices established after the careful inquiries instituted from about the year 1866 A.D., and acquiesced in since, are not to be disturbed; and Government will not be disposed to deviate from the existing registers in such instances without very weighty reasons being adduced.

Government would also draw prominent attention to the different manner in which the words "custom" and "practice" are used in the Act. The practice is by section 26 to be looked at, but so also the records; both are species of evidence of custom. This should be borne in mind where they do not coincide; in many cases it will be found that the practice since British rule began has been to appoint from one or more families, while other families have acquiesced on the understanding that their rights subsisted unaffected. This understanding is often proved by official entries; it often subsists in well-known and undisputed tradition. The Collectors will, of course, subject to the rule contained in section 73, clause 2, bring as much research and experience as possible to their judgment on the evidence, taking care that mere accident shall not prejudice just rights, and at the same time that mere recent practices of sub-divisions shall not be allowed to weaken the village system contrary to the proviso of section 26.

It is necessary that particular attention should be paid, under Part VI. of the Act, to decisions of the civil courts in suits instituted before the Act came into operation. Such decisions, Government are advised, should be accepted as evidence within the meaning of section 26 of the Act, and as conclusive evidence so far as they are consistent with the provisions of the Act.

The following rules are therefore to be observed on this point:—

(I.)—Decisions passed by the Collector since 1866 shall not be accepted under clause 2 of section 73 of the Act when they have been set aside or modified by the civil courts, but in such cases the courts' decrees shall be acted upon, so far as they may be consistent with the provisions of the Act.

(II.)—When litigation is still pending concerning any such decision it should not be accepted, nor should any final order be passed under section 73 of the Act until the final decree of the civil courts is obtained, when it should be acted upon as in the case of already existing decrees.

(III.)—Government reserve the right of directing that previous decisions other than the above shall not be accepted in particular cases.

The following case which was referred to Government is an instance of a large class of cases in Gujarát, which will require very careful treatment.

The register at present existing relative to a watan in the Ahmedabad District showed five persons descended from a common ancestor, as matádár patels, each having an equal eligibility to serve, the selection being made among the five at the discretion of the Collector.

When a vacancy occurred, the five men appeared before the Assistant Collector, and admitted that all the above facts were correctly recorded.

The Revenue Commissioner considered that section 29, clause 1, required registration of the head of the eldest family as sole representative watandár.

Resolution 1748 of 23rd March 1875 was intended to guide the disposal of cases of this nature. But on further consideration Government doubt the correctness of that ruling, and are pleased to issue the following orders in substitution of it.

It must be remembered that by the definition section 4, the term "head of a family" includes the chief representative of each branch of a family, and that although by section 29, clause 1, it is necessary to inquire who is the eldest representative of the "original watandár," yet that section must be read in connection with section 26, which enacts distinctly that, in determining what *heads of families* shall be recognized as representative, the Collector must take into consideration the practice hitherto observed from a date prior to Act XI. of 1843. There is no doubt that in Gujarát matádári villages the practice has always been to recognize the head of each branch of the family which has formed a distinct mata as matádár or representative watandár, and this practice should be as a general rule maintained, the only exception likely to occur to this rule being in the case of matás formed *contrary to the custom of the watan* subsequent to the introduction of Act XI. of 1843.

The existing matádárs having thus, as a general rule, been entered as representative watandárs, the Collector should, unless they themselves come to an agreement under section 31, decide, under sections 28 and 38, the rotation in which they are to officiate. In cases of difficulty the order of rotation may most conveniently be decided by drawing lots. In administering the rotation system thus established, however, attention must be paid to the provisions of section 40. This section enables the body of the watandárs to nominate one of their number, if three-fourths (including the representative whose turn has come) are present, and all unanimously agree as to the appointment; so that the matádárs may be often led to agree to the appointment of the fittest matádár, especially when the

Assistant Collector intimates his intention of refusing, under section 45, to allow the representative himself to serve.

It will be observed that under Part VIII. of the Act the representative watandár whose duty it is to officiate may, as a general rule, nominate any *watandár*, not necessarily representative, as his deputy. This is contrary to the general custom in *matádári* villages, in which it has been the practice for a *matádár* alone to officiate. Section 40 will generally meet this difficulty, but as under section 26 the custom of the watan as to service ought to be upheld, it will be well to require the *matádárs* during the inquiry to agree under section 31 that in case of the *matádár* whose turn it is being unable to officiate in person, he shall always appoint another *matádár* as his deputy, subject to the approval of the Collector under section 45.

When the service has been for life hitherto, the practice should, under section 38 of the Act, be continued as far as possible.

There are probably many other cases in which some uniformity of decision and much regard to existing custom is desirable. The Collector will refer these as they arise with full statement of the facts and the Collector's own opinion.

The remaining provisions of Part VI. as to adoptions, heirs, and guardians require no comment, except on the point raised by the Collector of Dhárwár in his letter No. 1085, dated 12th April last.

No amendment of the Watan Act, with a view to prevent the recognition of a female married out of the watan family and the entry of her name in the register in case she can produce a certificate of heirship, is required.

The provisions of the Act itself are sufficient to prevent the descent of a share in a watan to a female married out of the watan family, when there are *watandárs* of that family who desire to prevent it; at any rate, Government have no interest in preventing such a succession.\*

#### *Rules under Part VII. of the Act.*

*Section 40.*—Where the Collector has defined the order of service to be that of successive periods, the representative *watandárs* are entitled to elect an officiator. This procedure meets the views of many of the Revenue Officers, who hoped that the best and most influential men would be elected by the good sense of the *watandárs*. It is most desirable that this safeguard should be preserved and the popular custom maintained; the Government believe that the influence of the Collector and his Assistants, otherwise secured by the power of veto, will be sufficient to prevent grossly improper election, without interfering with its many advantages.

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\* See Appendix C of this Part on the subject of daughter's inheritance.

*Rules under Part VIII. of the Act.*

The sections in Part VIII. go much into detail as to appointments and removals of watandárs and deputies, and require no particular discussion.

*Section 42.*—With reference to section 42 it should be remembered that it is the wish of Government that representative watandárs should serve in person; and that, as a rule, the appointment of deputies should only be permitted in cases in which watans are owned by sardárs of so high a rank that they could not be reasonably expected to serve in person.

*Section 43.*—The determination of the number of officiators required should be made by the Collector under section 43, with much regard to the condition of family as well as to the needs of the village. Neither in this nor in any other matter is general or rapid change desirable. With a view to preserve the family and to secure the most respectable servants, it is provided that deputies must be watandárs, except in particular contingencies. The broad application of the term watandár to collaterals should not be lost sight of.

*Section 54.*—When the Collector appoints a deputy the term should be five years.

*Rule under Part IX. of the Act.*

The provisions as to penalties require no remarks.

*Rules under Part XII. of the Act.*

*Section 69.*—Section 69 imposes on the hereditary officers the duty of rendering both customary services and those specifically required by law. Where doubts exist, Government will determine under section 83.

*Section 71.*—The privilege of signing village papers, where it has been customary, is preserved to heads of families whether representative watandárs or not. This concession to the feelings of an influential class of men should be worked in the spirit in which it was enacted.

*Rules under Part XIII. of the Act.*

It is hoped that the defined procedure set forth will simplify investigations. The Collector's proceedings are, by section 74, under the control of the Revenue Commissioner; and for this reason, and in order to secure discussion, some uniformity and reference to general as well as local reasons, Government direct that all references, reports, and returns relating to watans on which Government have to pass order should be forwarded through the Revenue Commissioner, and submitted with his remarks or opinion.

*Sections 76 to 78.*—The rules as to appeals place decisions of the Revenue Officers on much the same footing as those of Magistrates of the first class; there is more safeguard of written proceedings than under the former law, and thus more finality is secured.

*Section 79.*—But, as already noticed, some uniformity is desirable, and section 79 gives Government a general power of revision, which will be exercised where decisions are passed contrary to the provisions of the Act. The Revenue Commissioners should report such cases. This section, it is to be observed, gives Government alone the power of calling for cases; and on the principle of *expressio unius est exclusio alterius* neither the Collectors nor the Revenue Commissioners have the power to call for cases which are not brought before them by regular appeal, since the decision of an Assistant or Deputy Collector under the power vested in him (which must be delegated to him under section 3, Bombay Act I. of 1863) is as good and as conclusive as that of the Collector himself, and is not therefore liable to be reviewed by the latter. Government consider it, however, desirable that the Revenue Commissioners and Collectors should be empowered to call for cases disposed of under the Act by officers subordinate to them, even if no appeal be presented, and under section 82 of the Act this power is hereby conferred on the officers named. Should it be put in force it will not be in the Collector's or Revenue Commissioner's power to review or alter the decision, but only to report upon it to Government under section 79 of the Act.

*Section 82.*—Government desire that the Collectors should, in suggesting general rules, adhere, as far as the Act permits, to existing arrangements, except where serious reason exists for alteration, or where trifling changes lead to more general uniformity.

When it has been the custom for a member of each of two or more takshims to serve contemporaneously, and in one or more of such takshims 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 recognized, and the rights of the representative watandár, or of the representative watandárs of each takshim as to service, shall be determined under the provisions of the Act as if each such takshim constituted a distinct watan.

## ADDITIONAL RULINGS AND ORDERS.

1. Watan land is "alienated land" within the meaning of clause 19, section 3 of the Revenue Code, and when an arrear of land revenue is due in respect of any such alienated holding, the Collector may, under section 153, declare the holding to be forfeited to Government. When the holding has been thus forfeited the Collector may, under section 57, take immediate possession, and it then can either be sold or be disposed of under rules or orders made in this behalf by Government under sections 56 and 214 (e).

If the holding is simply sold by the Collector as an alienated holding, the purchaser would become entitled to the same exemption from land revenue as the defaulter enjoyed. Government will no doubt think it inexpedient to continue exemptions in this way without any necessity, and the class of cases referred to by the Collector is therefore one calling for an express order under sections 56 and 214 (e). The Collector, when he has forfeited any such alienated holding, shall not sell it, but shall enter the land comprised therein in his records as unoccupied unalienated land, and deal with it under the law and the rules relating to land of that description. The arrear of *judi* will still be recoverable from the watanárs by any of the other means allowed by Chapter XL of the Code, and if not recoverable at all within what Government consider a reasonable period may, if Government think fit so to direct, be written off.

The loss of land appertaining to a watan will not necessarily involve the loss of the right of service. According to the definition in section 4 of the Bombay Hereditary Offices Act, "the watan property, if any, and the hereditary office and the rights and privileges attached to them together constitute the watan." There may still be a watan although no partially exempt land is attached to it. Section 32 of the same Act enacts that "when watan property of profits have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the watanárs were still in receipt of such emoluments." (G. R. 3016 of 10th June 1880.)

2. When lands are held by non-watanári patels for service, and have been alienated without the previous sanction of competent authority, they are resumable at the pleasure of Government. The Collector should therefore resume them and should assign to the officiating patel in each case so much of the land resumed, including the land in his own occupation, as may be required to provide for his remuneration according to scale. If any surplus land remains after providing for the remuneration of the officiator, such surplus may be re-granted to the present occupants at survey rates.

The officiating patels should continue to be nominated by the Collector according to present custom, and they should be made to understand that they hold the lands assigned to them so long only as they continue to serve. It is not desirable to create new watan rights under Act III. of 1874. (G. R. 1170 of 5th February 1881.)

3. The sanction of Government to an adoption by a kulkarni or his widow, or by a co-parcener in a kulkarniship or his widow, is not necessary to give it validity. (I. L. R. 1 Bom. 607.)

4. From the date of the coming into force of Bombay Act III. of 1874, the civil court cannot entertain a suit for a declaration of right to officiate as the sole representative of a branch of a watanár family, or that a person is eligible to officiate, the Act constituting the Collector a judge for this and other purposes of the Act. (I. L. R. 2 Bom. 370 and 479.)

5. There is nothing in Bombay Act, III. of 1874 or in Act X. of 1876 excluding the jurisdiction of the civil court in a suit to establish a right to share in the emoluments of a watan which has ceased to be a service watan. (I. L. R. 5 Bom. 578.)

6. There is no general presumption in favour of the impartibility of estates such as a *deshgat watan*. When the watan is property appertaining to an hereditary office, a decree for partition does not prejudice the watandár's right to any income payable out of it for the performance of his duties. (I. L. R. 4 Bom. 494.)

7. The Collector's certificate issued under section 10 should be sent to the court by whose decree or order the watan is affected. The words "without the sanction of Government" qualify the whole section, and the Collector cannot issue his certificate when an alienation has been sanctioned by Government.

The Act does not authorize the Collector to issue his certificate in order to prevent the rectification of a subordinate court's decree by the High Court, of the reinstatement of a person in possession of which he has been deprived by the execution of the erroneous decree of a subordinate court. (I. L. R. 5 Bom. 284.)

8. A mortgage or sale by a watandár of watan property executed where Regulation XVI. of 1827 was in force was in its inception, void against the heir of the said watandár and did not become validated when Bombay Act III. of 1874 repealed that regulation.

Adverse possession begins to run against the heir from the date of the death of the watandár. (I. L. R. 5 Bom. 435 and 437.)

9. A cessation (even though sanctioned by Government) of the performance of service attached to an impartible watan does not make it partible. (12 B. H. C. R. 224.)

10. Sanction of the Collector to the bringing of a suit for partition of a watan is not necessary. (Printed Judgments of 1880, p. 292.)

11. *Section 17.*—The object of this section is to fix definitely what the emoluments should be, and the wording of it is such as to leave the settlement entirely in the discretion of the Collector, subject only to the restriction mentioned in the proviso. In order to preserve the variability of this kind of watan property, the Collector's settlement is, under section 21, a periodical one. In each instance as it occurs the Collector must determine what is fair adequate remuneration, due regard being had to the nature and extent of the service performed. (G. R. 476 of 23rd January 1882.)

12. A tenant of an inámdár is a person "occupying immoveable property free from assessment" within the meaning of section 17, and it is immaterial whether the cultivators do or do not pay rent to the inámdár. (G. R. 7884 of 26th December 1881.)

13. 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 recognized, and the right of the heir to be registered is admitted as if he had been a born son of his father by adoption. (G. R. 5559 of 24th September 1881.)

14. All appointments lawfully made under Act XI. of 1843 remain unaffected by the Watan Act No. III. of 1874. (G. R. 515 of 24th January 1876.)



15. In applications in the District Court for certificates of heirship in cases in which alienations of watans are liable to be perpetuated, or in which Government is otherwise interested, the Government Pleader should be instructed to watch the proceedings of each case, and the Collector should see that the evidence of heirship tendered is thus worthy. (G. R. 945 of 15th February 1881.)

16. Bombay Act III. of 1874 does not appear to be applicable to village servants useful to the community. All the sanads which have been issued to such servants prohibit alienation of the property to which they relate. 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. 5705 of 30th September 1881, and 512 of 12th January 1882.)

17. The terms of the sanads granted under what is known as the Gordon Settlement are to be strictly adhered to. Widows can have no claim. Sections 10 and 11 of Bombay Act III. of 1874 are applicable to such watans except in the cases in which the terms of that settlement expressly render the watan alienable without the consent of Government. (G. R. 3279 of 2nd June 1876; 6070 of 8th October 1877; and 2915 of 23rd May 1881.)

18. No conduct on the part of the Collector making a settlement under section 15 of Bombay Act III. of 1874 (can act retrospectively so as to give a previous mortgage of a chowdri sirdeshmukhi and kulkarni watan a greater degree of efficacy than it had under Regulation XVI. of 1827, section 120, the law in existence when the mortgage was created (Printed Judgments of 1882, p. 68.)

## APPENDIX A.

Government Selections CXXXII, New Series, contains Colonel Etheridge's interesting narrative of the Bombay Inám Commission, dated 21st April 1873, which Government ordered to be published as a valuable work of reference, and gives a good deal of useful information on the subject of summary settlements.

See also Colonel Etheridge's Preface to his List of Saranjáms.

The following extracts are taken from the Judgment of the High Court, dated 12th June 1882, in a suit for partition of saranjám property, and will be found useful for reference :—

In *Krishnarav Ganesh vs. Rungrav et al.* (b) Westropp, C. J., said, "Sanadi grants in inám, saranjám, jaghir, vazifa, wakf, devasthán, and sevasthán, are, generally speaking, more properly described as alienations of the royal share in the produce of land, *i. e.*, of land revenue, than grants of land, although in popular parlance, and in this judgment, occasionally so-called." This observation has frequently been quoted with approval, and the principle involved in it was the foundation of the decision in *Vaman Janardhan Joshi vs. The Collector of Thána* (c), which has been followed in many subsequent decisions. In *Rouji Narayan vs. Dadaji Bapuji* (d) Westropp, C. J., repeated his former observation as being undoubtedly true, though he qualified it by adding that "if words are employed in a grant, which expressly, or by necessary implication, indicate that Government intends that so far as it may have any ownership in the soil, that ownership may pass to the grantee, neither Government nor any person subsequently to the date of the grant deriving under Government, can be permitted to say that the ownership did not so pass." He then added "In the *sanad* in evidence here, whosoever framed it, was apparently determined that no ambiguity should exist as to what the force of the term "village" might be; and in order to be explicit, he added to the grant of the village in inám the words "including the waters, the trees, the stones, (including quarries), the mines, and the hidden treasures therein." Consequently, in that particular case the Chief Justice refused to hold the Pensions' Act applicable; remarking that "an enactment of a character so arbitrary as Act XXIII of 1871, which purports to deprive the subject of his right to resort to the ordinary Courts of Justice for relief in certain cases, ought to be construed strictly, and the Court should not extend its operation further than the language of the Legislature requires." But the principle that grants in inám are ordinarily to be regarded as grants of land revenue, and nothing more, is in no way weakened by the decision in that case.

If this principle be true as regards grants in inám generally, it appears to us to be specially applicable to grants in jaghir or saranjám.

Of these two terms Colonel Etheridge says in the Preface to the List of Saranjáms published by him as the same stood on the 1st August, 1874, "Under the Mahomedan dynasty such holdings were known as *Jághír*, under the Marátha rule as *Saranjám*. If any original distinctive feature marked the tenure of *Jaghir* and *Saranjam*, it ceased to exist during the Marátha Empire: for, at the period of the introduction of the British Government, there was no practical difference between a *Jághírdar* and a *Saranjámddár*, either in the Deccan or Southern Marátha Country. The terms *Jaghir* and *Saranjam* are convertible terms in these districts. The latter is now almost universally adopted. These holdings, being of a political character, were not transferable nor necessarily hereditary, but, as a rule, were held at the pleasure of the Sovereign. On succession a *Nazrána* was levied. When of a personal nature, they were termed *Jat Saranjám*, when for the maintenance of troops *Fouj Saranjám*."

Colonel Etheridge's observation that jaghírs were not necessarily hereditary hardly conveys a correct idea of the fact. It would have been more correct, if he had said that jaghírs were not necessarily grants for life only, but might occasionally be hereditary.

(e). Ind. Law Rep., 3 Bom., 186. This is how the fact is stated by the Judicial Committee in *Gulabdas Jagjivandas vs. The Collector of Surat* (e), where, their Lordships say that a *jaghir* must be taken *primá facie*, to be an estate only for life, although it may possibly be granted in such terms as to make it hereditary. Similarly, in the Fifth Report from the Select Committee on Indian Affairs (page 86) it was said: "With regard to the *jághírs* granted by Mahomedans, either as marks of favour, or as rewards for public service, they generally, if not always, reverted to the State on the decease of the grantee, unless continued to his heir under a new *sanad*; for the alienation in perpetuity of the rights of Government in the soil was inconsistent with the established policy of the Mahomedans, from which they deviated only in the case of endowments to the religious establishments and offices of public duty, and in some rare instances of grants to holy men and celebrated scholars."

The circumstance that grants of this kind were ordinarily of so temporary a nature raises a presumption even stronger than that which exists in regard to ináms generally that the grants were ordinarily grants of the land revenue, and not of the soil. And the best authorities on the subject agree in so defining the nature of *jághírs* and *saranjáms*. Colonel Etheridge, in the Preface to which we have already referred, says: "It was the practice under former Governments, both Mahomedan and Marátha, to maintain a species of feudal aristocracy for State purposes by temporary assignments of revenue, either for the support of troops for personal service, the maintenance of official dignity, or other specific reason. Holders of such grants were entrusted at the same time with the powers requisite to enable them to collect and appropriate the revenue, and to administer the general government of the tract of land which produced it. Under the Mahomedan dynasty such holdings were known as *jághír*; under the Marátha rule as *saranjám*." Professor Wilson in his Glossary defines *saranjám*s as "temporary assignments of revenue from villages or lands for the support of troops, or for personal service, usually for the life of the grantee; also grants made to persons appointed to civil offices of the State to enable them to maintain their dignity. They were neither transferable nor hereditary, and were held at the pleasure of the Sovereign." The term *jághír* he defines as "a tenure common under the Mahomedan Government, in which the public revenues of a given tract of land were made over to a servant of the State, together with the powers requisite to enable him to collect and appropriate such revenue, and administer the general government of the district." Mr. Steele (Hindu Castes, page 207) says: "Grants by the Native Government in *Jághír* were either *Fauj Saranjám*, subject to the performance of military service, or *Jat Saranjám*, personal *Jághír*. The subject of these grants were the whole or particular portions of the revenues of villages belonging to the Sirkar \* \* \* \* \*. Usually the grants depended on the pleasure of the Sovereign, and the fidelity of the grantee \* \* \* \* \*. They were not in general hereditary; sanads seldom exist; on the first grant it was usual to give the grantee a *Khat* or order addressed to the Government officers of the district." Mr. Neil Baillie, in his Essay on the Land Tax of India, says (page xlv) "The *Jághír* is, properly speaking, an order upon the *Khíraj* of particular lands, which are said to be granted by way of *Jághír*. Two examples of it are given in the Appendix; and the terms in which they are expressed are worthy of attention. In both a sum of money, so many *lakhs* of *dams*, is said to be bestowed out of a particular Pergunneh, the officers and inhabitants of which are directed to account for their just rents and dues of the *Diváni* (that is of the Civil Government) to the agent of the *Jághírdár*, up to the sum specified, from which they are forbidden to withhold or deduct a single *dam*." He then goes on to say: "Though the *Jághír* was, in form, an order for the payment of the *Khíraj*, there is no doubt that the *Jághírdár* was treated, in some respects, as the *Zamíndár*, or holder of the land. Thus No. IV of the Appendix is a *Perwanneh*, addressed to the agent of a *Jághírdár*, in which he is required to do justice to a complainant; and though the purpose of the *Jághír* was to make a provision by an order on the revenue, yet this was said to be by way of *Jághír*, as if some holding or taking of the land itself was necessary to give due effect to this object. The *Jághír* is thus sometimes treated as an estate in land, not only in the Regulations, of the Indian Government but also in the decisions of the Courts of Justice, and in this sense it is considered to be, essentially, an estate for life. There is reason however to think this view of the *Jághír* to be erroneous. As an order for payment of the *Khíraj* to a particular person, it necessarily fell to the ground on his death, unless some other persons, by name or description, were included in the grant. Such other persons might be his children: and if a *Jághír* were granted to a man and his children, there seems to be no just reason why it should not pass to them at his death; much less is there any just cause for suspecting the genuineness of a document constituting a *Jághír*, because it contains such words as seems to have been done in the case above alluded to." We understand Mr. Neil Baillie as expressing in this passage a clear opinion that, although the etymology of the word *jághír* has sometimes given rise to the idea that the term involves a taking of land, or an estate in land, and although a *Jághírdár* has been treated as having some of the powers of a land-holder, yet, in fact, the grant is nothing more than an assignment of land revenue. And the case of *The East India Company vs. Syed Ali (f)* shows that it was upon this ground that the Madras Government justified the resumption of *jághírs*, when it assumed the Government of the Carnatic in 1801. At page 575 of the Report is the plea of the East India Company that "even when the language of the grants might seem to convey a proprietary interest in the soil, the grantees confessedly possessed no such interest, the subject-matter of the grant being a mere *Jághír*, or portion of public land revenue, together with the Government powers of collecting the same."

The authorities which we have quoted, (and none have been shown to us which support a different conclusion), may, we think, be taken as at least establishing that a grant in *jághír* or *saranjám* is very rarely a grant of the soil, and that the burden of proving that it is in any particular case a grant of the soil lies very heavily upon the party alleging it. If it had not been that in the present case, in which there is no *sanad*, a Division Bench remanded the case for the taking of evidence, we should have been disposed to say that such a contention could not be made out by any evidence except such a *sanad* as was produced in *Ravji Narayan vs. Dadaji Bapuji* already referred to.

The history of the manner in which Deccan *saranjāms* were dealt with by the Government of India and the East India Company, when it succeeded to the Government of the Peshwa, is succinctly stated in Colonel Etheridge's Preface. The correspondence cited by him shows clearly enough that, when on the advice of Mr. Mountstuart Elphinstone, then Commissioner at Poona, it was determined that all *saranjāms* granted prior to A. D. 1751 should be considered hereditary; this concession was made, not as of right, but as an act of grace and State policy, and the Government reserved to itself the power of determining, whenever occasions might arise, the nature and extent of its own bounty. This reservation of the power of Government has been recognised in all the legislations on the subject since Mr. Mountstuart Elphinstone, as Governor of Bombay, framed his Code of Regulations Section 38 of Regulation XVII of 1827, provides that "land held exempt as *Jāghīr* shall be liable to resumption and assessment under the general rules at the pleasure of Government." This is explained in Clause 3, Section I, Regulation VI of 1833, which says "*Jāghīr* or other lands held on service tenure are declared to be resumable at the pleasure of Government, under the forms laid down in Clause First, Section 38, Regulation XVII, A. D. 1827, it being understood that the expression used in the said clause, *viz.*, "under the general rules" meant "such rules as Government may think proper to issue from time to time." Act XI of 1852, after providing for rules for adjudicating upon titles to exemption from payment of land revenue, says (Section 10): "These rules shall not be necessarily applicable to *Jāghīrs*, *saranjāms* or other tenures for service to Government, or tenures of a political nature, the title and continuance of which shall be determined, as heretofore, under such rules as Government may find it necessary to issue from time to time." So, in Bombay Act II of 1863, which was an Act to facilitate the adjustment of unsettled claims to exemption from the payment of Government land revenue in those parts of the Bombay Presidency, which are subject to the operation of Act XI of 1852, Section 1, Clause 2, says: "The excepted cases, to which the authority of adjustment and guarantee vested in the Governor-in-Council by this provision shall not extend, are the cases of lands held as follows:—

1st. \* \* \* \* \*

2nd. Lands granted or held as *Jāghīrs* or *Saranjāms*, or on similar political tenure."

And then, lest any question should be raised, (as was attempted to be raised in the argument in this case), whether the mere order of Government that land should be entered in the accounts under the heading "Political" is conclusive as to the political character of the grant, Section 16 of the Act goes on to say: "'Political tenure' is defined to be tenure created from, or dependent upon, political considerations, the existence of which shall be determined by the Government." So, in Bombay Act VII of 1863, which is a similar Act relating to districts not subject to the operation of Act XI of 1852, Section 2, Clause 2, provides that "lands granted or held as *Saranjām*, or on similar political tenure, shall be resumable or continuable in such manner, and on such terms as Government, on political considerations, may from time to time see fit to determine," and Section 32 contains a definition of the term "political tenure," similar to that which we have quoted from Bombay Act II of 1863. The Regulations and Acts which we have cited show beyond all question that it is for the Government to determine how *saranjāms* are to be held and inherited, and that, if the Civil Courts had jurisdiction over claims relating to *Saranjāms*, they would be bound to determine such claims according to the rules laid down by the Government. It would, therefore, be useless to refer, as in this case we have been referred, to evidence tending to show that, under the Native Government, the ancestors of the parties dealt with their *Saranjām* villages as if they were proprietors of the soil, and partitioned the villages among their families. The questions which the Courts would have to consider would simply be, what are the terms of the grant by which the British Government continued the *Saranjām*? and what is the rule of succession laid down by the British Government for *saranjāms* in general, or for this *saranjām* in particular?

It would appear that, under "the *Saranjām* Rules" an hereditary *Saranjām* is considered by the Revenue authorities to descend entire to the eldest representative of the last holder, and that, if the eldest son predeceases his father, his son takes precedence of the next surviving son of the last holder.

We have been informed that the only rules are those contained in the Preface to Colonel Etheridge's List of *Saranjāms*, to which we have so repeatedly referred. As the Regulations and Acts which we have quoted contemplate that *jāghīrs* and *saranjāms* should be continuable under general rules to be issued from time to time by Government, it seems strange that no rules should be forthcoming, bearing the authorisation of the signature of a Secretary to Government. We, must, however, take it that Colonel Etheridge speaks, under the authority of Government, when he says in the Preface to which we have been referred, that succession to *Saranjāms* is restricted to lineal male heirs in the order of primogeniture; and that the eldest son is the heir in the first instance. Colonel Etheridge says that in *Saranjāms* of the second class, if the eldest son of the first British grantee die before his father, but leave a son, that son, on his grandfather's death, is to be considered the second generation, and the whole *Saranjām* will be continued to him. But curiously enough, Colonel Etheridge does

not say whether the same rule of succession would be applicable to hereditary *Saranjams*; and on this point, therefore, we are left without any distinct rule. The rule to which the Revenue Commissioner referred in 1865 as giving to the son of a predeceased eldest son a preference over his uncle is not forthcoming in the Secretariat; nor does Mr. Nairne in his Handbook mention any such rule, except that which we have already quoted from Colonel Etheridge's Preface, as applicable to *Saranjams* of the second class. In the absence of a rule made by Government, the Courts would, if they had jurisdiction in the matter, be obliged to decide according to the ordinary rule of Hindu law applicable to impartible property; and although, as stated by Mr. Mayne in his work on Hindu Law (Section 461), there is rather a want of authority as to the rule to be adopted where an eldest son, who has never taken the estate, has died leaving younger brothers, and also a son, yet the Courts would probably hold that the grandson took in preference to his deceased father's eldest surviving brother.

As regards the question of the impartibility of a *saranjam*, the rule stated by Colonel Etheridge is in accordance with the orders conveyed in a despatch from the Court of Directors, No. 27, dated 12th December 1855. In para. 20 of that despatch they say: "We agree with you that *Saranjams* should not be sub-divided, but that the holders should be required to make a suitable provision for their younger brothers." A *jaghír*, to which service is attached, is certainly not divisible, but descends to the eldest son  
 (g). 6 Cal. S. D. 169, 204. —*Hurlall Singh v. Jorasun Singh* (g), cited with approbation by Lord Kingsdown in 6 Moore's Indian Appeals, 125, and *Rajha Nilmoney Singh v. Bakranath Singh*, decided by the Privy Council, 10th March 1882. There is some evidence in the present case that the *saranjam* was originally given for the maintenance of a body of horse, and was, therefore, in its inception a *jaghír* held for service. But independently of this and of any Government rule, the same principle would probably be applied to all *saranjams*, on the ground stated by Mr. Mayne (Hindu Law, Section 393), that an estate, which has been allotted by Government to a man of rank for the maintenance of his rank, is indivisible as otherwise the purpose of the grant would be frustrated.

## APPENDIX B.

No. 6018.

*Extract from the proceedings of the Government of Bombay in the Revenue Department, dated the 25th October 1875.*

READ the undermentioned papers:—

Letter from J. E. Oliphant, Esq., Acting Revenue Commissioner, S. D., to the Chief Secretary to Government, No. 5, dated 4th January 1875.

In continuation of my Memorandum No. 4307, dated the 24th November last, I have the honour to request you will favour me with the instructions of Government as to the course to be followed in cases in which the watan lands belonging to district hereditary officers and subjected to the summary settlement are purchased by parties (not members of the watan-dár's family) at auction sales under decrees of the civil courts. Such purchasers frequently make applications to have the lands entered in their names in the Government accounts, and the question for consideration is, whether or not their applications should be complied with.

2. As the right of Government to exact service from the lands in question has been commuted under the settlement effected by the late Mr. Gordon, I see no objection to enter the lands in the purchaser's names on their agreeing to pay in future the additional naz-rána of one anna for each rupee of the assessment, as prescribed for adoptions out of the family of watandárs.

Memorandum from Colonel A. T. Etheridge, C.S.L., Alienation Settlement Officer, S. D., No. 28, dated 15th January 1875.

Referring to Government endorsement No. 163 of 12th instant, Colonel Etheridge has the honour to observe that he is very doubtful whether a purchaser's name should be entered in the Government accounts, as suggested by the Revenue Commissioner, in the case of a district watan disposed of at an auction. It seems to the Alienation Officer that the terms of the sanads issued under Mr. Gordon's watandári settlement will scarcely admit of this course. As there is a doubt, the question might perhaps be referred to the Legal Remembrancer.

Report by J. R. Naylor, Esq., C.S., on special duty, No. 176, dated 8th May 1875.

Clause 2, section 15, Bombay Act III. of 1874 (the Hereditary Officers' Act), enacts that any settlement for commutation of service made with the holder of any watan before that Act came into force, shall have the same force as if made under that Act. And clause 1 of the same section enacts that such settlement may be made "upon such condition whether consistent with the provisions of this Act or not, as may be agreed upon." The effect of this appears to be to legalise any terms that may be, or may heretofore have been, mutually agreed upon between Government and the holder of a watan, even though such terms may not be consistent with the provisions of the Act. But watan property does not cease to be watan property, because the duties, for the performance of which it was originally acquired, have been commuted for a money payment, and unless there be something in the terms of the commutation settlement inconsistent therewith, the law ordinarily applicable to such property still applies to it, I think, notwithstanding that Government have dispensed with the necessity for service.

2. Under this view, I am of opinion that section 5 of Bombay Act III. of 1874, which enacts that "no watandár shall, without the sanction of Government, sell, mortgage, or otherwise alienate or assign any watan or part thereof, or interest therein, to any person not a watandár of the same watan," is applicable to the watans of district hereditary officers whose liability to service has been commuted for a money payment, because, as far as I am aware, there is nothing in the settlements entered into with them to the contrary. I say as far as I am aware, because I find from Colonel Etheridge's narrative\* of the Inám Commission (latter part of para. 69) that the sanads which have been issued "are not only not the same throughout the Presidency, but are not the same in all respects in the same division."

3. The only form of sanad which has come to my notice is that sanctioned originally by Government Resolution No. 2871, dated 25th August 1863, in the Revenue Department, for Poona and Sátára. The former portion of it has been since somewhat changed on the recommendation of the Legal Remembrancer, but the essential portion would appear from the standard form (Sanad 14), recently printed at the Central Press, after being sent to me for revision (*vide* Government Memorandum No. 4958, dated 16th September 1874), to have remained intact. It is as follows:—

\*Bombay Government Selections, No. CXXXII., New Series, p. 50.

"It is hereby declared that the said lands and cash allowances shall be continued hereditarily by the British Government, on the following conditions: that is to say, that the said holders and their heirs shall continue faithful subjects of the British Government, and shall render to the same the following fixed yearly dues:—

	Rs.
Mámul Judi ... ..	...
In lieu of service ... ..	...
Total ... ..	_____

"In consideration of the fulfilment of which conditions—

"1st.—The said lands and cash allowances shall be continued without demand of service, and without increase of land tax over the above fixed amounts, and without objection or question on the part of Government as to the rights of any holders thereof, so long as any male heir to the watan, lineal, collateral, or adopted, within the limits of the watandár family, shall be in existence.

"2nd.—No nazrána or other demand on the part of Government will be imposed on account of the succession of heirs, lineal, collateral, or adopted within the limits of the watandár family, and permission to make such adoptions need not hereafter be obtained from Government.

"3rd.—When all the sharers of the watan agree to request it, then the general privilege of adopting at any time any person (without restriction as to family) who can be legally adopted, will be granted by Government to the watan, on the payment from that time forward in perpetuity of an annual nazrána of one anna in each rupee of the above total emoluments of the watan."

The above conditions, so far from being inconsistent with the provisions of the Hereditary Officers' Act, are, it seems, in strict accordance with section 5 of it, which prohibits a transfer of the watan property to any person not being a watandár of the same watan. And if the same conditions are contained in all the sanads alluded to by Colonel Etheridge, the variances being in other details only, I am of opinion that no portion of watan to which any such sanad applies can be alienated to any person other than a watandár of the same watan without the sanction of Government, and that the Collectors may lawfully, in case of any such alienation in the future, have recourse to the powers given to them by Sections X. and XI. of the Act, and in the case of alienations effected before the Act was passed otherwise than by the intervention of the courts, to the powers given them by Section IX. of the Act.

4. It cannot, I think, be said that the property of any watan to which a sanad containing the above conditions has been given, has been thereby converted into *private property* in the usual wide sense of that term, and if I am correct in supposing that similar conditions have been inserted in all such sanads, I would respectfully suggest that the latter part of the 1st para. of Government Resolution No. 4248, dated 24th July 1873, might perhaps be modified with a view of removing possible misunderstanding. The closing part of the Collector of Dhárwár's Memorandum of the 10th October 1872,\* to which the Hon'ble Colonel Anderson took exception in para. 5† of his No. 970, dated 1st July 1873 (*vide* Compilation No. 1063 of 1873), appears also to have been correct, whilst

\*"The above rules (proposed for the collection of judi on inám holdings) will apply to all kinds of ináms in this district with such few modifications as would be necessary according to the different conditions under which the ináms may have been continued; for instance, in the case of the district hereditary officers' lands, the same rules would apply, with this exception, that the transfer contemplated in the rules should not be permitted when the transferee is some person out of the watandár's family; this is necessary, as these watans have not been made transferable private property." (Mr. E. P. Robertson, Collector of Dhárwár's Memo. dated 10th October 1872.)

† "The rules proposed by the Collector of Dhárwár would act beneficially beyond all doubt, and with a definition of the share of each sub-inámdár, would give a much more secure and comfortable tenure to all inámdárs, freeing them from all chance of molestation from the misdeeds or machinations of their co-sharers; but Colonel Anderson cannot agree with the closing part of the Collector's memo. of the 10th October 1872, in making district hereditary officers' lands only an exception. It would appear very inexpedient to allow the permanent transfer to any person, not of the office family, of any lands now held on service tenure. When all liability for service has been commuted no such objection exists. It would be far preferable, considering their present status, to allow district hereditary officers to do what they please with their lands than to grant the same liberty to the patels and kulkarnis, which, however, does not appear to be objected to by the Collector of Dhárwár. To facilitate the scattering of patels' and kulkarnis' land would be a political as well as an administrative error, while it appears by no means certain that the same measure would not be a political advantage in the case of the district hereditary officers whose service is no longer required, and whose ancient family influence, which is still very great and little to the advantage of Government, would be decreased by the dispersion of their lands." (Colonel Anderson's Memo. No. 970, dated 1st July 1873.)

the latter's views are certainly not in accordance with those expressed in para. 4 of Government Resolution No. 3167, dated 19th September 1863.\*

5. I should add that a similar question to that on which I am now reporting has been raised in the suit marginally noted, the defence of which was sanctioned in Government Resolution No. 5510, dated 17th October 1874, and in adverting to para. 9 of my Report No. 158, dated 13th October 1874, upon this suit, I must explain that Sections V. and IX. of Bombay Act III. of 1874 have placed the law as to the inalienability of watan property in a much clearer light than the vague provision of clause I., Section 20 of Regulation XVI. of 1827 did.

IN THE DISTRICT COURT OF POONA.

Original No. 2 of 1874.

Náro Dámodar Ghugri.

vs.

The Collector of Poona.

Memorandum from Aderji Jamsetji, Esq., Acting Alienation Settlement Officer, N. D., No. 306, dated 14th June 1875.

The queries put in Government Memorandum No. 2824, dated 17th May 1875, to the Revenue Commissioner, N. D., are:—

- (1.) Whether the same conditions have been entered in the sanads issued to the watandárs in the districts of the Northern Division as those stated by Mr. Naylor?
- (2.) Whether the entry of the names of purchasers of watans is not permitted in the Northern Division?

2. As regards the first query, the undersigned begs to append a memorandum showing the conditions of the sanads issued to the watandárs in the different Collectorates of Gujarát.

3. In the remaining Collectorates of Khándesh, Násik, Thána and Kolába, the conditions of the sanads issued to the watandárs of those districts are the same as those stated by Mr. Naylor.

4. With respect to the second query, the undersigned begs to state that the entry of the names of purchasers of watans in the districts of Surat, Broach and Kaira has been permitted. A specimen of such entry is given below:—

“Haridás Navalráam, purchaser of Dhanshankar Lakhmishankar's hak.”

5. Applications for the entry of the name of a purchaser or mortgagee of the watans mentioned in para. 3 of this memorandum have been rejected by this department.

6. The conditions of the sanads issued to the watandárs of the Ahmedabad District admit of a purchaser's name being entered, provided the watandárs have agreed to the payment of an annual nazrána of one anna in each rupee of the total emoluments of the watan.

*Conditions of the Sanad granted to the District Hereditary Officers of Surat and Broach as per Government sanction No. 3929, dated 14th November 1867.*

“The watan, of which the share specified in the schedule below given is a part, as now confirmed, shall be continued (subject to the condition of loyalty to the British Government on the part of the holders thereof) by the British Government without demand of service, and without any further deduction therefrom on that account, or any objection or question on the part of Government as to title, to whomsoever shall from time to time be the lawful holders thereof, but without affecting the rights and interests of other parties.”

\* “With reference to paragraphs 26 to 29 (of the Watan Commissioner's report), the Governor in Council agrees with Mr. Hart (*vide* extract † para. 4 of his report given below) in accordance with whose views the point therein referred should be disposed of. With a view to give practical proof of the desire of Government to increase rather than to diminish the share which those officers have hitherto had in the efficient administration of the country, Government will be glad to receive from the Commission list of any of these Hereditary Officers whom they, after consultation with the Collectors, would recommend to be gazetted as Honorary Magistrates, together with a draft of any rules they may think it desirable to lay down for regulating the proceedings of such officers in the execution of their functions. Great care should be taken in the selection of officers with regard, not only to their personal character and social position, but their capacity to appreciate the honour done to them and their class by their selection.” Government Resolution No. 3167, dated 19th September 1863, para 4.)

† Extract para. 4 of Mr. Hart's Report above referred to:—“There is only one other point on which the Revenue Commissioner considers any remark beyond the notice of his general concurrence necessary, and this is not a point of any importance as regards the financial part of the settlement. In paragraph 25 of the Special Commissioners' letter, they mention the desire of the zamindárs, that in order to keep up the recognition of the consideration in which they have been hitherto held by the community, ‘they should be considered to have a right to sit in the kacheri.’ This ought not to be assented to in such terms as to recognise their rights to frequent the Mámlatdárs' kacheris, or interfere in the kacheri work, at their own pleasure, which might cause great inconvenience and abuses of various kinds, but that when they do attend, in pursuance of invitations such as are contemplated at the close of the Special Commissioners' 28th paragraph, or in pursuance of any legitimate business, they shall be treated with no less consideration in such matters, as being allowed to be seated, &c., than they have hitherto been. The Revenue Commissioner believes that this is what is intended by the Special Committee, but has considered it right to notice the matter, trivial as it may appear, more particularly than they have done.” (Mr. Hart's Memo. No. 2302, dated 24th July 1863.)



*Conditions of the Sanad granted to the District Hereditary Officers of Ahmedabad as per Government sanction No. 234, dated 17th January 1867.*

"1st.—The watan, as now confirmed, and below specified, shall be continued (subject to the condition of loyalty to the British Government on the part of the holders thereof) hereditarily without demand of service, and without any further deduction therefrom on account of service, and without objection or question on the part of Government as to the rights of any holders thereof, so long as there shall remain in existence any legal heir to the watan, whether lineal, collateral, or adopted, within the limits of the watandár's family, and whether descended in the male or female line.

"2nd.—When all the recorded sharers in the watan agree to request it, the general privilege of adopting at any time any person out of the watandár's family, who can be legally adopted, and of transferring the watan or any recognized share thereof, by sale, mortgage, &c., as private property, will be granted by Government to the watan on the payment from that time forward, in perpetuity of an annual nazrána of one anna in each rupee of the total emoluments of the watan as now confirmed, and from the date of the imposition of this nazrána the whole watan, or the recognized shares thereof, will be converted into private property, heritable and transferable in all legal modes."

*Conditions of the Sanad granted to the District Hereditary Officers of Kaira, as per Government sanction No. 2376, dated 16th May 1872.*

"This sanad is accordingly issued; and it is hereby declared that the emoluments of the said watan specified below shall, as now confirmed, be continued (subject to the condition of loyalty to the British Government on the part of the holders thereof) by the British Government in perpetuity, without demand of service or any further deduction therefrom on that account, and without any objection or question on the part of Government as to title, whether it shall have accrued in virtue of inheritance, adoption, transfer, or otherwise to whomsoever shall from time to time be the lawful holders thereof, but without affecting the rights and interests of other parties."

**RESOLUTION.**—The question raised by Mr. Oliphant is a very important one, and requires definite orders. But owing to the variety of agreements which has been made with watandárs and to other causes, no distinct ruling of general application has yet been laid down.

2. Government are inclined to think that the rule laid down for Surat and Broach in Government Resolution No. 4425 of 16th December 1867 (a copy of which will be found in the précis attached), is the one which should be adopted everywhere, viz., that Government will not question alienations by district hereditary officers who have accepted the settlement, but that this course does not prevent parties interested from suing to set aside alienations as illegal. In that case it would be as well to forego the right to claim a nazrána of one anna on alienations or adoptions in which this has been stipulated for in the sanads. The amount of nazrána to be lost will be very small. If this course were adopted, the rule would be that the Collector should enter the names of alienees, if not objected to by the watandárs, on which point inquiries should be made. If the watandárs object, the Collector would refuse to make the entry, and leave the parties to obtain decision from the Civil Court.

3. Government will, however, feel obliged by the Revenue Commissioners considering the important question at issue thoroughly, and favouring them with their opinion upon it. Government would wish to be informed, at the same time, how far the condition has already been enforced of payment of nazrána where such a provision has been inserted in the sanads, and whether any complications would follow the abandonment of it.

4. Mr. Naylor should be asked his opinion whether, if the question were decided in the manner indicated, it would be necessary to issue new sanads, or whether the decision would be a mere concession which the watandárs cannot object to; in other words, would an order merely directing the Collectors not to enforce certain stipulations in the sanads be objectionable?

5. Mr. Naylor should forward duplicate copies of his report to the Revenue Commissioners as well as to Government, in order that the Revenue Commissioners may have the benefit of his opinion when submitting their reports.

No. 3279.

Bombay Castle, 2nd June 1876.

REVENUE DEPARTMENT.

Letter from Mr. J. R. Naylor, C.S., on Special Duty, No. 21, dated 7th January 1876.

Letter from the Revenue Commissioner, S. D., No. 1333, dated 20th April 1876.

Letter from the Revenue Commissioner, N. D., No. 3133, dated 20th May 1876.

Replying to Government Resolution No. 6018, dated 25th October 1875—Calling for opinion on the question as to the advisability of permitting alienations or adoptions out of the families by district hereditary officers who have accepted the watan settlement, without payment of nazrána.

**RESOLUTION.**—His Excellency in Council does not think it would be expedient to forego the nazrána of one anna, and it seems to him that the method least likely to cause difficulty would be to adhere strictly to the terms of the sanads in each case.

## APPENDIX C.

*Extract from reports of the Legal Remembrancer, quoted in Government Resolution No. 2318, Revenue Department, dated 8th April 1882.*

" 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 recognized 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 life-time, 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* I. 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) recognizes 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.

" 6. 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 v. Chimno 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, Vijnáneshvar, 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 recognize 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 Arnould, 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. There is, therefore, 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 now discussed.

" 12. In the case reported in the Indian Law Reports, Volume VI., Bombay Series, page 87, *Bulákhidás v. Keshavlál*, Mr. Justice Melvill says: 'In this Presidency, and especially in Gujarát from whence this case comes, the Vyavahára 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 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." //

PART VII.

**RULES UNDER THE BOMBAY LOCAL  
FUNDS ACT, 1869. ~~111~~**

(Under Section 12.)

**PUBLIC WORKS SECTION.**

District Committee. 1. The District Local Funds Committee shall consist of—

- (1) The Collector, as President.
- (2) The First Assistant Collector.
- (3) The Second or other Assistant Collector in permanent charge of talukas.
- (4) The Executive Engineer, except as regards Educational matters, when the Educational Inspector shall be substituted.
- (5) The District Deputy Collector in permanent charge of talukas.
- (6) The Huzúr Deputy Collector.
- (7) An Inámdár, or holder of an alienated village in the district, to be elected as provided in Rule 29, by the holders of alienated villages situated in the district.
- (8) Six proprietors or holders of land to be appointed by the Commissioner of the Division.

Any member of the District Local Funds Committee may be removed by Government.

2. The Local Fund revenues shall include the proceeds of the one-anna cess, the levy of which has been authorized by Bombay Act III. of 1869, and such other funds as Government have either already made over or may hereafter be pleased to make over to the Local Fund Committees.

3. A third of the proceeds of the one-anna cess, leviable under Bombay Act III. of 1869, shall be held to belong to the Educational Département, and the annual accounts of this portion of the Local Fund cess shall be incorporated with the Annual General Local Fund Accounts of the district.

4. The remaining two-thirds of the one-anna cess shall be expended on roads and communications, and works subordinate thereto, *i.e.*, on dharmshálas or rest-houses, on water-supply, and on the plantation of avenues of trees, and on objects calculated to promote the public health.

5. The Local Fund Budget Rules sanctioned by Government shall be carefully attended to, and shall be held to apply to the transactions of the Local Fund Department in the Public Works and Educational branches.

6. The District Local Funds Committee shall ascertain and provide for the requirements of the district with respect to the works and undertakings alluded to in Section IV. of Bombay Act III. of 1869.

Duty of the District Committee.

7. It shall also examine and decide upon the estimates and proposals for expenditure forwarded by the Táluka Committees, and shall likewise regulate the expenditure of Local Funds, subject in all respects to the control and general supervision of the Revenue Commissioner, who may, in the exercise of such control, order any expenditure from the Local Funds on special objects for which no specific provision has been made in the budget, such expenditure being met by allotments from the reserve or by re-appropriations from budget assignments.

8. In case of any difference of opinion between the Táluka and District Committees, the decision shall in the first place rest with the Collector and President of the District Committee.

9. The District Committee shall also communicate with the District Committees in the adjacent Collectorates in view to secure uniformity and connection of plan in laying out roads, &c.

10. The Collector as President shall prepare a statement showing the net estimated receipts on account of Local Funds available to be budgetted against, and this statement, together with the estimates and proposals of the Táluka Committees, shall be laid before the District Local Funds Committee at a meeting to be convened by the President on or about the 1st September of each year at a place to be named by him, 15 days' notice being given.

11. The vote of the majority of Committee members shall decide all questions at all meetings of the Committee, the President having a casting vote, and the proceedings at this and every other meeting shall be drawn up at the time and signed by the presiding officer.

12. The District Local Funds Committee shall decide at the meeting provided for in Rule 10 what local works and repairs, and what other works of general utility to the district, shall be undertaken, and shall cause a general list to be prepared, showing the amount proposed to be expended on each, subject to the revision provided by the Budget Rules laid down by Government.

13. The Committee shall also settle what establishments shall be entertained for the superintendence and execution of Local Fund works, and dispose of any other business which the President may lay before the Committee.

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15. Extracts from the budgets submitted by the Committee shall be forwarded for information to each Táluka Committee.

16. The Collector as President shall convene a second meeting soon after the 31st July of each

year (15 days' notice being given), on which date the Local Funds accounts are closed in the office of the Accountant General, to examine the accounts.

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18. On the receipt of the general budgets, ordinary and supplementary, of Local Funds of the Bombay Presidency, the Collector as President shall circulate it to all the members of the District Committee for their information, and forward an extract to each Táluka Committee, showing what works, repairs and establishments have been sanctioned for the district.

19. For the despatch of the current work of a general nature the District Local Funds Committee will meet twice a year, on or about the 10th January and on or about the 10th July. Questions arising in the interim shall be disposed of by the circulation of correspondence and minutes. The President, however, is empowered to call a special meeting at any time when occasion may require, by issuing a notice of not less than 15 days to the members to that effect.

\* \* \* \* \*

21. No disbursements whatever shall be made from the Local Funds by way of remuneration to any persons employed on the Collector's, Commissioner's, Accountant General's or any other Government establishment, without the sanction of Government previously obtained through the Commissioner, and no new appointment is to be made hereafter in any Government office at the expense of Local Funds, except with the sanction of Government previously obtained through the Commissioner. It should be understood, however, that the establishments of overseers and other officers in the Department of Public Works, or of school masters and teachers in the Department of Education, do not come within the scope of this Rule.

22. No permanent new appointments or situations of overseers, clerks, kárkuns, &c., shall be created without the sanction of the Commissioner.

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24. All appointments in the Correspondence, Account, Public Works Department, either under the District or Táluka Committee, shall be made by the District Local Funds Committee, subject to the veto of the President. Where the President records his veto, the case shall be submitted with reasons for the final decision of the Commissioner.

25. No servant of the Committee drawing more than Rs. 50 a month shall be dismissed without the consent of a majority of the Committee in meeting assembled. The President of the District Committee, however, shall have power to suspend any such servant of the Committee for misconduct or negligence, pending the question of his dismissal being submitted to the District Committee, which shall be done with as little delay as

possible. The President of the District Committee shall also have power to summarily discharge any servant drawing Rs. 50 and under a month.

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27. At a suitable date before the close of each quarter, the President of the District Committee shall prepare a statement showing the amount required for disbursement in the ensuing quarter, and shall obtain a credit order for that amount from the Commissioner. [See para. 4 of the letter from the Government of India No. 2459, of the 20th April 1863, published at page 414 of the *Government Gazette* for 1863, Part I.]

28. Every Mámlatdár shall visit at least once a quarter such works in progress in his táluka as may be entrusted for execution to the Táluka Committee, and make a direct report on them to the Assistant or Deputy in charge, who is President of the Táluka Committee and a responsible member of the Committee of the district.

29. The election of Inámdárs for the District Election of Inámdárs Committees should be conducted to District Committee. ed as follows:—

The Collector, as President, shall forward a notice to every Inámdár in the district (entered in the Government books as holder of an alienated village), or to his manager or agent, requiring him before a fixed date, which shall not be less than one month from the date of the notice, to elect an Inámdár of the district as a member of the District Local Fund Committee. The electors shall give their votes in writing, to be delivered by post or otherwise to the Collector and President before the date fixed. The person who shall have received the most votes shall (unless any sufficient reason exists for excluding him) be declared elected, and his name forwarded by the President for insertion in the *Government Gazette*. In the event of the electors being equally divided in favour of two or more nominees, the President may nominate one of such nominees and in the event of the Inámdárs not making a return by the time specified in the notice, the President may nominate.

30. The President of the District Local Funds Administration report. Committee shall annually, in the month of April, after receiving the reports of the Táluka Committees provided for in Rule 39, compile a concise report of the general administration of the Local Funds of his district, and this report shall, after being discussed at a general meeting, be forwarded through the Commissioner to Government for publication in the *Government Gazette*. This report shall include a statement of the year's receipts and disbursements, and copies of it shall be printed in English and the vernacular, and distributed among the members of the District and Táluka Committees, a copy being furnished to each of the vernacular newspapers.

31. There shall be a Táluka Committee for each táluka to assist the District Committee by advice, and supervising such works as may be entrusted to them. It shall consist of—

- (1) The Assistant or Deputy Collector in charge of the táluka, President.
- (2) The Mámlatdár.
- (3) An officer of the Public Works Department employed in the táluka of not lower grade than a First Grade Overseer. In Educational matters the Deputy Educational Inspector shall be substituted.
- (4) An Inámdár or holder of an alienated village in the táluka to be elected by the holders of alienated villages situated in the táluka in the manner provided for the election of an Inámdár member of the District Committee in Rule 29; the President of the Táluka Committee being substituted for the President of the District Committee, and notice of fifteen days for the táluka being substituted for a notice of one month provided for the larger area of the district.
- (5) Where an Inámdár or holder of an alienated village is not available, any person whom the electors may choose may be substituted.
- (6) Three or (where there are no Inámdárs or holders of alienated villages in the táluka) four proprietors or holders of land in the táluka nominated by the Collector, subject to the Commissioner's approval. Any member of a Táluka Committee may be removed by the Collector subject to the approval of the Commissioner.

32. The duty of the Táluka Committee shall be to ascertain the local works required in the táluka, and to bring them to the notice of the District Committee in order that they may be duly considered with reference to the total funds available for expenditure in the district. It shall also be the duty of the Táluka Committee to supervise the construction of such works as the District and Táluka Committees may arrange should be undertaken by the latter. But all Local Fund contracts must be executed in the name and with the approval of the President of the District Committee, as provided in Rule 20.

33. The Assistant or Deputy Collector, as President of the Táluka Committee shall, before the 10th August in each year, convene a meeting of the Táluka Committee at some place in the táluka to be appointed by him, 10 days' notice being given; and the President of the District Committee shall furnish an estimate of the amount of the Local Funds derived from the táluka which can be budgetted against.

34. The vote of the majority shall decide all questions, the President having a casting vote; and the proceedings at this and every other Committee shall be signed by the presiding officer.



35. The Committee shall decide on the requirements of the taluka, and shall cause a list of proposals with rough estimates to be prepared for submission to the District-Local Funds Committee by the President of the Taluka Committee, in the form prescribed by the District Committee, so that the taluka lists may be duly considered for incorporation in the district budget before its annual meeting about the 1st September.

36. The President may cause the Taluka Committee to assemble at any time and place when occasion may require, by issuing a (10) ten days' notice to the members to that effect.

37. The Taluka Committee, on receipt of the extract from the Government budgets of Local Funds, will provide for the execution of such works in the taluka as the District Committee shall arrange with the Taluka Committee for the latter to superintend under Rule 32, and shall be empowered to decide whether the works shall be done departmentally or by contract. Any member of the Taluka Committee may inspect any of these works at any time, and forward in writing to the President of the Taluka Committee any remark he may wish to make regarding it.

38. Correspondence between the District and Taluka Committees shall ordinarily be conducted through their Presidents. In such matters of executive detail as cannot be disposed of at the meetings of Committees, the orders of the President shall be sufficient.

39. A detailed report of the Local Fund administration of each taluka shall be annually submitted by the President of the Taluka Committee to the Local Fund Committee on such date as may be fixed by the latter, explaining what has been done during the year, and suggesting what is required in future.

#### EDUCATIONAL SECTION.

40. Not less than a full third of all cess collected under section 6 of the Act shall be assigned to Education, and shall be expended first in providing salary and pension for teachers of primary schools in the contributing villages, and in building and repairing primary school-houses in them, and in the training for them of masters for primary schools; and secondly, when there is a sufficient provision of primary schools and teachers, in making such provision for secondary education as shall be suited to the needs or uses of the cess-payers.

41. The Educational Inspector of the Division shall be an *ex-officio* member of every District Local Fund Committee in his division, and the Deputy or Assistant Deputy Inspector in charge of a sub-division shall be an *ex-officio* member of every Taluka Local Fund Committee in his sub-division. The words Educational Inspector and Deputy or Assistant Deputy Educational Inspector, shall in-

clude any one acting for or in charge of the office of an Educational Inspector, or Deputy or Assistant Deputy Educational Inspector.

42. The Educational *ex-officio* member of each Táluka Committee shall prepare and discuss with the Táluka Committee objects of educational expenditure in the sub-division, and shall forward lists of such objects from time to time to the Educational Inspector according to his directions.

43. The Educational Inspector shall collect lists of objects of educational expenditure from the educational *ex-officio* members of Táluka Committees, and shall discuss them from time to time with the President and members of the several District Local Funds Committees in his division, and shall arrange them for insertion in the Educational Local Fund Budget, with careful regard to their respective emergency and to the claims of cess-payers in every part of his division.

44. The Educational Local Fund Budget of each district shall be drafted by the Educational Inspector, who shall lay it with full explanations of his proposals before the District Local Fund Committee, by whom it shall be considered and amended or approved.

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45. Any power exercised in regard to other Local Funds matters by the Revenue Commissioner shall be exercised in regard to the Educational Local Funds matters by the Director of Public Instruction conjointly with the Revenue Commissioner. Any matter on which they differ in opinion shall be submitted for the decision of Government.

46. The disbursement of current charges in the Educational section shall be effected through the Educational Inspector. The execution of educational public works shall be effected through the District Committee by such agency as they may select.

#### *Additional Rule.*

Correspondence sent by a Local Fund officer, or by any Government officer acting in a capacity connected with a Local Fund, such as President or Secretary of a Local Fund Committee, is not official correspondence within the meaning of these Rules, and may not be superscribed as on Her Majesty's Service.

Service stamps may not be sold to Local Fund officers or to Government officers in capacities connected with Local Funds; and the frank of such officers will not be recognized in support of service stamps.

But nothing in this Rule shall be held to prevent the transmission on Her Majesty's Service of correspondence sent by a Government officer acting as such, even though the correspondence may relate to the affairs of a Local Fund. For instance, the Commissioner of a division writing *in that capacity* to a Local Fund officer concerning Local Fund affairs, may superscribe the letter on Her Majesty's Service.

The term Local Fund as used in this Rule is intended to include municipalities and other similar bodies or institutions.

## BUDGET RULES.\*

1. All local rates, taxes, tolls, and other imposts forming part of the Local Funds revenue, shall be collected by the Civil Revenue officers of Government, and deposited in the Government Treasuries.

2. The expenditure on establishment, &c., required by such officers to aid in the collection of Local Funds revenue, shall be budgetted for as a charge to Local Funds. The sanction of Government in the Financial Department shall be obtained to such expenditure, in detail, before it is incurred.

3. The Local Funds Committee shall initiate all expenditure from Local Funds, and shall be held responsible that the expenditure from such funds, in any official year, does not exceed the available means of the district in that year. The Committee shall also guard against Local Funds being concentrated on large, distant objects, to the neglect of more immediate local wants.

4. To enable the Local Funds Committee to exercise a proper check upon expenditure, the Executive Engineer, or other officer in charge of the construction of works from Local Funds, shall send to the President Local Funds Committee a monthly progress report of all expenditure from Local Funds and shall supply any additional information which the President, on examination of the progress reports, may think necessary.

The Executive Engineer will likewise furnish the Local Funds Committee with a general annual report at the close of the year.

The Annual Administration Report submitted to Government by Superintending Engineers, should also include an account of the principal works carried out by the Public Works Department from Local Funds. Minor works (*i. e.* below Rs. 2,500 each) need not, as a rule, be noticed, unless there are, in any case, any particulars of professional or general interest connected with them.

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\* The orders requiring Local Funds to be spent *tálukwár* are superseded, and a system of five-year budgets introduced. (G. B. No. 499 A.—1503, of November 5th, 1877.)

The system of five-year budgets changed to one of seven-year budgets. (G. B. No. 4137 of 18th July 1881.)

These Rules must, therefore, be considered to be in force subject to this modification.

5. As a rule, all public works shall be undertaken by the Public Works Department, and Superintending Engineers and Executive Engineers shall superintend and construct such works with the same care that they are required to bestow on works from Provincial Funds. Expenditure of the class described below may, however, be incurred by the Local Funds Committee themselves:—

(a) Original works and repairs, the cost of each of which shall not exceed Rs. 2,500, and which do not require professional skill. (*N.B.*—Small bridges and drains and culverts, and difficult nālas, crossings, or repairs to metalled roads provided with bridges and drains, though costing below this limit, shall, however, if requiring professional knowledge, be entrusted to the Public Works Department.)

(b) Lines of road the mileage cost of which shall not exceed Rs. 500.

6. The works so excepted may be undertaken by the Local Funds Committee, under superintendence provided by themselves, or with the aid, if applied for, of Overseers provided from the regular Public Works Establishment, whose services shall in such cases be entirely at the disposal of the Committee; the pay and allowances of such Overseers shall be charged to Local Funds, and provided for in the budget under Civil agency.

If any such Overseer shall not give satisfaction to the Local Funds Committee, he shall, on their application, be changed.

Subordinates under the Local Funds Committee may be granted "fixed batta," or allowances at the rates in force in the Revenue Department.

7. The Executive Engineer, Public Works Department, shall, if required to do so, furnish the Local Funds Committee, with plans and estimates for the works to be undertaken by the Committee. He shall also line out all the roads to be constructed from the Local Funds, without reference to their cost; he shall assist the Committee with his advice, when called upon for it, as regards any of the works carried out by the Committee, and he shall also examine the construction of such works, and grant completion certificates for them.

For works which do not require professional skill, the signature of the Assistant Collector to the completion certificate should be sufficient; but, in doubtful cases, the Local Fund Committee may require the certificate of the Executive Engineer.

8. The Executive Engineer shall be *ex-officio* member of the Local Funds Committee, and shall be its professional adviser. Although he is not debarred from

suggesting to the Committee the execution of works of local importance, yet his chief duty shall be to elaborate and carry out the proposals which the Committee may initiate, the principle being borne in mind that the financial control of the Local Funds is vested solely in the Local Funds Committee, while the regulation of the professional details of the public works which the Committee determines to construct, shall rest with the Executive Engineer.

9. The Executive Engineer shall, nevertheless, be guided by the directions of the Committee, as regards the scope and style of the work to be undertaken, and shall carry out any alterations in the project that the Committee may require to be made, except such as affect engineering details necessary for the stability of the projected work.

10. When the Local Funds Committee contemplate undertaking a work, a requisition for the necessary plan and estimate shall be made on, and be complied with by, the Executive Engineer, who shall procure the countersignature of the Superintending Engineer to the documents prior to submitting them to the Committee. It will then rest with the Committee to procure the sanction of competent authority, under these Budget rules, to the project; and they will, in communication with the Executive Engineer, fix the time for the commencement of the work.

11. The sanction to an estimate by an authority shall not convey permission for the expenditure of money on the work; it is necessary that a distinct appropriation of funds for its execution be made according to Budget Rules. The sanction of the estimate and the provision for the expenditure are two distinct processes, and both are necessary before a work can be commenced. In cases, however, when contributions are received for local works to be commenced immediately, and after the Budget has been sanctioned, the contributions shall be considered as additions to the Budget grant, and the sanction of Government shall be procured to the work being undertaken.

12. In the event of the President of the Committee requesting the Executive Engineer to suspend any work, pending a reference to Government on any point which may arise, the Executive Engineer shall be bound to do so; provided that the Executive Engineer shall not be held responsible for any enhanced cost, or any waste of money that may be entailed by the suspension of the work, and that any responsibility in this respect shall rest solely on the President of the Committee.

13. No proposal for the execution of public works shall be definitely sanctioned, unless accompanied by designs and estimates; from this it follows, that the mere sanctioned plans and estimates indispensable before Budget provision is available.

entry of a work in a sanctioned Budget is not authority for expenditure, such entry being made on the implied understanding that the estimates will be duly examined and sanctioned by competent authority before the work is commenced.

The exceptions to this Rule are as follows:—

(1) Works to cost each between Rs. 50 and Rs. 200 may be carried out on a rough estimate for the guidance of the subordinate entrusted with their execution.

(2) Works to cost each less than Rs. 50 may be carried out without any estimate.

14. When a design and estimate have been sanctioned by the Committee, no alteration in them, involving additional expenditure, shall be made without the previous concurrence of the Committee; provided that if a rise in prices requires a revision of the rates, the Executive Engineer shall not be bound to act upon any sanctioned estimate, but shall have the option of submitting a revised estimate for the sanction of the Committee.

15. As regards grants for works under Public Works Agency, when an estimate has been sanctioned by competent authority, and has found a place in a sanctioned Budget, or when an appropriation for it has been regularly granted, no portion of the sum sanctioned should be transferred to any other work, unless the Executive Engineer reports that there is a balance available for transfer. This, however, is not to preclude the President of the Local Funds Committee from directing the work to be stopped or suspended, under existing orders should it be found advisable or desirable under competent authority, to defer any work in favour of a more pressing one.\*

16. The Local Funds Committee shall prepare annually a Budget of the estimated receipts and disbursements, under all heads, in the year in each taluka. The Budget estimates shall be framed against the estimated receipts of the year in which the expenditure is to be incurred, plus the actual and estimated balances at the close of the year immediately preceding, and they shall be prepared in the forms appended to these Rules, and in conformity with the instructions endorsed on them.

17. The Budget-estimate shall include, under original works, a provision for a reserve for unforeseen minor

\*It is not to be understood that when a contract has been obtained for any work, the amount of the contract will, in every case, cover the entire cost of the completed work. Charges for extras are very general in all contract works, and there are also frequently charges for special superintendence, apart from general and ordinary superintendence, which are proper debits to the work; such charges must be held to be included in the rates of the sanctioned estimate, and they must be incurred if the work is to be safely carried out.

works (i.e., works below Rs. 1,000 each). The amount of such reserve shall not exceed 10 per cent. of the total provision for original works. The provision for reserve shall not be available for repairs, unless with the sanction of Government, nor shall the reserve be increased by transfer to it of the unappropriated balance, if any, of Local Funds, except under the authority of Government.

The Budget-estimate shall also include a provision for "unforeseen minor repairs" of Rs. 2,000 in the case of each Public Works Fund Budget, and Rs. 200 in each Educational Budget, from which Collectors, and Presidents of Local Fund Committees, and Educational Inspectors, are empowered to sanction petty repairs to works not in the budgets, of an emergent nature, and such as could not be foreseen when the budgets were under preparation.

Minor works or repairs sanctioned from the reserve as constituted by this Rule may be undertaken by either agency, as may be found most convenient, without reference to Government.

18. The Local Funds Committee shall forward the Annual Budget Estimates to the Commissioner, or the Director of Public Instruction, as the case may be, who, as these documents come in, shall duly examine and transmit them to the Accountant General, so as to reach him not later than the 15th October. The Accountant General shall verify the balances and check the ordinary permanent charges, and he shall be responsible that the balances are correct, and should certify to that effect on each Budget. If necessary, he shall correspond direct with the President of the Local Funds Committee to procure any correction, or explanation of discrepancies, but as such correspondence will be productive of delay, he should, if practicable, make the corrections in accordance with the figures shown in his books, certifying to that effect. The Accountant General, after completing his examination, shall submit the Budgets (separately as he disposes of each) to Government in the Financial Department, and when Government in the Financial Department have examined each Budget, and, if necessary, after communication with the President of the Local Funds Committee, have made such alterations as may seem to them requisite, they will pass it and send the Public Works Funds portion to the Public Works Department, and the Educational portion to the Educational Department. The Public Works Department, after examining the Public Works Funds portion, will issue final orders upon it, which should be at once communicated to the President of Local Funds Committee and the Financial Department. The Educational Department, after recording such orders and remarks as may be necessary, will likewise send its portion of the Budget to the Public Works Department, from which final orders will be issued. As each Budget is passed by the Public Works Department, the

orders upon it should at once be communicated to the President of the Local Funds Committee concerned, and the Budget itself sent to the Accountant General for compilation into one General Budget for the whole Presidency. That portion of the General Budget which relates to public works shall then be printed and distributed in the usual manner.

19. On the Budget Estimate being sanctioned, the Local Funds Committee shall furnish the Executive Engineer with specific instructions as to the works to be undertaken, and the Executive Engineer shall arrange for their construction accordingly.

20. In the event of the orders of Government on the Local Funds Budget for any year not being received before the commencement of the year, works in progress may be proceeded with to the extent of the amount provided for expenditure on them, and within the amounts of their sanctioned estimates.

21. \* The entire expenditure from Local Funds, on public works sanctioned in the Budget, under the Civil and the Public Works agency, respectively, (*i.e.*, whether to be incurred by the Executive Engineers, Public Works Department, or by the Local Funds Committee, or by Educational Officers,) shall be accounted for to the Controller of Public Works Accounts, in accordance with the regulations of the Public Works Department, and under corresponding instructions which the Controller should furnish to the local officers.\*

22. The Local Funds shall be debited with a share of the expenses of the regular Public Works Establishment, at a uniform rate of 15 per cent. on the amount actually expended in the year by the Executive Engineer, Public Works Department. From this charge the following shall be exempted:—

(a) Expenditure incurred by the Local Funds Committee under clauses (a) and (b), section 5.

(b) Contributions from ryots.

The percentage shall cover all superintendence supplied by the Public Works Department for Local Funds works.

The rate of 15 per cent. is also applicable to contributions from Municipalities in aid of Local Funds, and to contributions from Municipalities, for Municipal works undertaken by the Public Works Department, but not to contributions from Municipal funds towards Provincial Works.†

\*Provisions for outlay under all heads of the Budget shall invariably be made in even tens or hundreds of rupees.

†Expenditure on tools and plant incurred by Public Works Agency is subject to the establishment charge of 15 per cent.



Power of sanctioning works. 23. (1.) Collectors, and Presidents Local Funds Committees;

the Deputy Commissioner, and President Local Funds Committee, Upper Sind Frontier;

the Deputy Commissioner, and President Local Funds Committee, Thar and Parkar;

the Educational Inspector;

may sanction—

(a) Estimates up to Rs. 1,000 for each work or repair to be undertaken by either Public Works or Civil agency.

(b) Excesses up to 10 per cent. on each estimate sanctioned by themselves up to Rs. 1,000 in each case, inclusive of the excess.

(c) The acceptance of contracts up to Rs. 1,000 for each sanctioned work to be undertaken by Civil agency, and up to Rs. 1,000 for repairs, without reference to agency.

(d) Re-appropriations from the sanctioned provision of works, or repairs in the Budget, to other sanctioned works or repairs in the same Budget, irrespective of main heads; except when such re-appropriations will cause an excess of more than 10 per cent. on the sanctioned estimate of works, and, 2ndly, when the works or repairs are to cost more than Rs. 1,000 each.

(e) Appropriations from the sanctioned provision for Unforeseen Minor Works (Part I of the Budget) to new works below Rs. 1,000 each, not provided for in the Budget.\*

(f) Re-appropriations from the sanctioned provision for repairs in the Budget, to repairs not provided for in the Budget up to a limit of Rs. 1,000 in each case.

(g) Re-appropriations of sums below Rs. 1,000 without reference to the total cost of the work, from or to which the re-appropriation is made; but this power cannot be exercised more than once as regards the work from which the re-appropriation is made, without the sanction of competent higher authority, which authority is moreover needed, if the re-appropriation in this case be from one main head of the Budget to another.

(h) Appropriations from the grant for Unforeseen Minor Repairs to small repairs not provided for in Part II. of the Budget, up to Rs. 2,000 in the year. The limit from Education Local Funds is up to Rs. 200 in the year.\*

\*The provisions for Unforeseen Minor Works and Repairs may be made use of to supplement grants for Original Works and Repairs, or to meet excesses over allotments under either head.

The powers defined in Clauses (e) and (h) apply to Original Works and Repairs only, and do not extend to Part III. Establishment, and Part IV. Tools and Plant, of the Budget, the expenditure under which can be foreseen, and should be duly provided for, and all proposals for re-appropriation to those parts of the Budgets, from the grants for Unforeseen Minor Works and Repairs require the sanction of Government.

- (1) Transfers of funds from Public Works to Civil agency and *vice versa*, provided the President of the Local Funds Committee and the Executive Engineer both agree to the transfer; intimation of such transfer being made to Government through the Examiner of Public Works Accounts.
- (2). The Commissioner in Sind ;  
the Resident, Aden ;  
the Commissioners of Divisions ;  
the Director of Public Instruction ;  
the Collector of Salt Révenue ;  
may sanction—
- (a) Estimates up to Rs. 10,000 for each work to be undertaken by either Public Works or Civil agency. Estimates for repairs provided for in a sanctioned Budget may be sanctioned without limit.
- (b) Excesses up to 10 per cent. on each estimate sanctioned by themselves, up to Rs. 10,000 in each case, inclusive of excess.
- (c) The acceptance of contracts up to Rs. 10,000 for each sanctioned work to be undertaken by Civil agency, and for repairs without limit, except sanctioned Budget grants, and without reference to agency.
- (d) Re-appropriations from the sanctioned provision of works or repairs in the Budget, to other sanctioned works or repairs in the same Budget, irrespective of main heads; except when such re-appropriations will cause an excess of more than 10 per cent. on the sanctioned estimates of the works, and, 2ndly, when the works are to cost more than Rs. 10,000 each.
- (e) Re-appropriations from the sanctioned provision for repairs in the Budget, to repairs not provided for in the Budget.
- (3.) The sanction of Government is required—
- (a) In the Financial Department, to the details of the Establishment charges for collection of Local Funds revenue of every description.
- (b) In the Public Works Department, to all appointments to, and changes in, the Public Works Establishments paid from Local Funds, both under Civil and Public Works agency.
- (c) To transfers of the sanctioned grants in the Public Works Local Funds Budget, to the Civil Local Funds Budget.

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When a work has been initiated by the Local Funds Committee, sanctioned by competent authority, and its execution entrusted to the Public Works Department, its construction thereafter will proceed under the Rules of the Public Works Department Expendit.

The Educational Inspector in Sind can carry out minor works and repairs.

(d) To estimates and contracts in excess of Rs. 10,000, each work. This does not apply to repairs, which, as far as sanctioned in the Budget, may be dealt with by the Commissioners or officers holding an analogous position.

(e) To re-appropriations from sanctioned Budget provision, to new works or to surveys of new works not provided for in the Budget, the provision for Unforeseen Minor Works excepted.

(f) To excesses above 10 per cent. on the sanctioned estimate of works. This does not apply to repairs.

(g) To the addition to the sanctioned Budget grant of the year, of contributions received after the Budget has been passed.

(h) To re-appropriations from the grants for Unforeseen Minor Works and Unforeseen Repairs to Part III., Establishment, and Part IV., Tools and Plant.

24. All re-appropriations shall be reported to the Examiner of Public Works Accounts.

\* \* \* \* \*

25. Projects which are essentially incomplete without extensions, and Sanction to series of works. which, together with such extensions, would exceed the powers of any of the above authorities, shall be submitted for approval to the authority competent to sanction the amount of the whole project. And no series of works, such as bridges and drains on a line of road, shall be broken up, and each work separately sanctioned with a view to evade this rule.

26. Credit orders for Local Funds expenditure on Public Works must be issued monthly by the Examiner of Public Works Accounts, in accordance with the rules obtaining in the Public Works Department with regard to Imperial and Provincial expenditure.

27. Collectors, and Presidents Local Fund Committees, possess the power of Sanctioning survey estimates against the provisions for unforeseen minor works; but if a re-appropriation is required, the matter must come before Government.

28. The procedure in force in the Public Works Department as regards giving Contracts—procedure to be observed in accepting contracts should be adhered to by Civil officers entrusted with Public Works expenditure. This procedure is, that tenders should be publicly invited, and though the responsible authority is not required to accept the lowest or any tender, yet, as a rule, the lowest tender that may be received from a reliable person should be accepted.

29. Completion certificates for works costing less than Rs. 500 should be furnished in a monthly return, instead of separately, and for works costing Rs. 500 and upwards, a separate certificate should be furnished in the form used by the Public Works Department for such works.

30. Collectors, and Presidents Local Fund Committees, possess the same Contingent Bills as is possessed by Superintending Engineers in the Public Works Department.

*Additional Orders.*

1. The site proposed by the Local Funds Committee for a new school-house, should, in every case, be reported to the Educational Inspector for approval before the work is commenced.

2. The construction from Local Funds, of step wells, for drinking purposes, is strictly prohibited.

3. The fact of a town having a Municipality should not absolutely deprive it of a claim to expenditure from Local Funds, if the town also contribute to Local Funds; there should be no distinction between villages and towns in this respect; a large town probably contributes more to Local Funds than a small village.

4. The whole of the provisions under Unforeseen Minor Works and Unforeseen repairs in Parts I. and II. of the Budget shall be provided under Civil Agency.

5. The system of dividing each item of expenditure above Rs. 50 into separate heads of Labor and Materials should be discontinued.

6. Local Funds cannot be deemed to be public revenues within the meaning of the proviso of section 6 of Act X. of 1870 (the Land Acquisition Act). The power of acquisition given to Government ought to be strictly followed; so that Government cannot take up land and pay for it from public revenues, recouping the public revenues the expenditure thus incurred from Local Funds. (G. R. 255 of 14th January 1882.)

7. No contributions are to be given from Local Funds for works executed with the object of increasing the land revenue. (G. R. 1802 of 20th April 1871.)

8. The purchase of bulls to improve the breed of cattle is a legitimate object on which to expend Local Funds. (G. R. 2387 of 20th April 1876.)

9. The maintenance of Government stallions is also a legitimate object for such expenditure. (G. R. 4209 of 20th July 1881.)

## PART VIII.

### RULES UNDER THE LOCAL AUTHORITIES LOAN ACT, 1879.

1. In these Rules (1) 'The Act' means 'The Local Authorities Loan Act, 1879'; (2) 'Local Authority' and (3) 'Funds' have the meanings assigned to them respectively in the Act; (4) 'The Local Authority' means 'The Local Authority applying for, or, as the case may be, receiving or raising, or having received or raised the Loan'; and (5) 'Loan' means 'A loan under the Act.'

Loan must be defined in rupees.

2. A loan must be defined in rupees and not by the sterling or any other foreign standard.

3. No loan shall be granted or raised except for the construction or repair of works of public utility, within the local limits of the jurisdiction of the Local Authority, or for the benefit of the inhabitants within those limits.

For works of public utility only.

4. No loan shall be granted to or raised by any District Committee for the construction of any public work, unless it be estimated that a direct net revenue will be derived therefrom equal to at least 4 per centum per annum on its capital cost: Provided, however, that the Local Government may make a loan, not exceeding Rs. 20,000, and repayable in not more than one year, to a District Committee, for a work designed especially to employ labour for the purpose of relieving distress.\*

5. An application for a loan, or for permission to raise a loan, shall be signed by three-fourths of the members of the Managing Body or Committee duly constituted and acting for the Local Authority. Every such application shall state—

Procedure for application for loan.

1st, the work, or works, for the construction or repair of which the loan is required, and an estimate of the cost thereof;

2nd, the amount which it is proposed to borrow;

3rd, the fund or funds on the security of which it is proposed to borrow;

4th, the law or laws under which the said fund or funds is or are levied, received or held;

5th, the period for which the loan is required, the number and amount of the instalments, if any, in which it is proposed that the loan shall be

\*This Rule applies only to District and not Municipal Committees. The latter are not debarred from borrowing for unproductive works which are shown to be necessary. (*Bombay Government Gazette*, 1882, Part I., p. 75.)

taken, the dates proposed for receiving such instalments in which it is proposed to repay the loan ;

6th, the yearly proceeds of each of the funds received or held by the Local Authority ;

7th, all expenditure incurred by the Local Authority in each of three last preceding years ;

8th, all existing prior charges upon the funds of the Local Authority.

6. The Local Government shall cause such enquiry as it thinks necessary or expedient to be made into the statements contained in the application and into the use and value of the proposed work.

Enquiry into application by Local Government.

7. If it appears to the Local Government that the loan ought not to be granted or raised, it shall reject the application.

Local Government may reject summarily.

8. If it appears to the Local Government probable that the loan ought to be granted or raised, it shall cause to be published in the local official *Gazette*, and otherwise, as it deems fit, within the local limits of the jurisdiction of the Local Authority, a copy of the application and such particulars in regard to any enquiry made under Rule 6 as it may think necessary.

Application if granted to be published.

9. After the expiry of one month from such publication, and after calling for any further information which it may require, and considering any objections which may be preferred, the Local Government may either reject the application, or, subject to the provisions of Rule 10, grant the loan, or refer the application for the orders of the Governor General in Council.

After one month may be rejected or referred to Governor General.

10. (a) Save as provided in clause (b) of this Rule, the Local Government may make a loan from any sums which the Governor General in Council allots for the purpose.

Local Government may make loans from sums allotted.

(b) If the proposed loan is more than twice the yearly income of the Local Authority ; or if the Local Authority be not a Municipal Committee, or persons legally entitled to the control or management of a Municipal Fund ; or if the loan exceeds Rs. 5,000 ; the previous sanction of the Governor General in Council is necessary.

11. Receipts for loans shall be signed on behalf of the Local Authority in the manner in which orders for the disbursement of money on behalf of such Authority are required by law to be signed. If there be no such law, such receipts shall be signed by the President or Chairman, and by the Vice-President or Vice-Chairman, and by two Members of the Managing Body or Committee duly constituted and acting

Receipts for loans.

for the Local Authority. The signature of a receipt shall be deemed to be an acceptance by the Local Authority of the loan and of all the conditions upon which it is granted or authorized.

12. The Local Government shall make provision for the proper inspection of all works which are being carried out by means of a loan and for ascertaining and securing that the loan is duly applied to the purposes for which it is made. Every such work, and the accounts connected therewith, shall be open at all times to the inspection of the Superintending or Executive Engineer in whose Division it is situate, and of any person who may be authorized to inspect the accounts of the Local Authority, and of any other person specially authorized by the Local Government in this behalf.

13. If the Local Government considers that the conditions on which a loan was granted or authorized have not been fulfilled, or that the Local Authority has failed to comply with any of the requirements of these Rules, it may, at any time, order that no further payments shall be made or received on account of such loan, and, if the loan was made from the public treasury, recover the amount advanced, with interest thereon, in the manner prescribed by section 6 of the Act.

14. (a) Interest shall be charged half-yearly on each loan at the rate agreed upon; and, until the loan is completely raised, or until the Local Government shall at some earlier period declare the loan to be closed, shall be reckoned and paid on each instalment from the date on which it is received.

(b) Every loan shall be discharged in equal half-yearly instalments, so calculated that the principal shall be repaid with interest in not more than twenty years from the date on which the loan is completely raised, or declared by the Local Government to be closed.

(c) Provided that, with the sanction of the Governor General in Council, the equal half-yearly instalments may be so calculated that the principal shall be repaid with interest in more than twenty but not more than thirty years, from the date of the completion or closure of the loan.

15. The Local Authority may, at any time, repay the whole or any part of a loan made from the Public Treasury in advance of the periods fixed by the conditions of the loan.

16. The cost of any enquiry made under Rule 6, of advertisements published under Rule 8, of inspections made under Rule 12, and of any other proceedings by order of the Local Government or the Governor General in Council under these Rules, shall be determined by the Local Government, and shall be paid by the Local Authority.

17. (a) The accounts of every loan shall be kept  
Accounts. by the Accountant General of  
the province in which it is made.

(b) The Local Authority shall give to the Accountant General and the Local Government any information which they may require regarding the expenditure of the loan, and regarding its funds.

18. An annual statement of all loans granted or  
Annual statement. raised under the Act, repayments due and made during the year, and balances outstanding at the beginning and end of the year in each province, or under each Local Government, shall be prepared by the Accountant General and submitted to the Government of India through the Local Government, which shall add a report of the progress of the works. Such statement shall be published in the local official *Gazette*.

19. An attachment of any funds under section  
Attachment of funds under section 6 of the Act. 6 of the Act shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as the Local Government may appoint. Such notice shall be published in the local official *Gazette*; and otherwise, as may be directed by the Local Government, within the local limits of the Local Authority. The moneys collected or received under such attachment shall be paid into the Government treasury, or, if the loan has not been obtained from the Government, to the lender; and the accounts of moneys so collected and of the cost of collection shall be prepared in such form as the Local Government may from time to time direct. A copy of the accounts shall be delivered to the Local Authority, and published in the local official *Gazette*.



PART IX.

RULES UNDER THE PENSIONS ACT, 1871.\*

I.—Under Section 5.

1. Claims relating to pensions or gratuities on account of service, whether in the civil, military, naval, or any other department of the administration, are to be inquired into and disposed of in such manner as may be directed in the Civil Pension Code, or in any rules or orders for the time being in force applicable to such pensions respectively.

Disposal of claims concerning service pensions;

2. Claims relating to any cash payment forming part of the property of a watan in respect of which no service commutation settlement has been effected, will be inquired into and disposed of in accordance with the provisions of the Bombay Hereditary Offices Act and of the rules and orders from time to time in force thereunder. In the event of any such claim being preferred to which none of the said provisions shall appear to be applicable, the orders of Government should be obtained through the proper channel previous to the disposal thereof.

and of claims relating to service watan allowances.

3. Nothing in the rest of these Rules applies to any pension, gratuity or cash payment to which the two last Rules apply.

Extend of applicability of rest of these Rules.

4. Claims preferred to a Collector under section 5 of the Act may be either—

Disposal of claims preferred under section 5.

- (a) against Government only, or
- (b) against Government and one or more private parties jointly, or
- (c) against private parties only.

Claims falling under class (a) or (b) shall ordinarily be disposed of by the Collector; but whenever any important legal question is involved which the Revenue Officers concerned may not feel themselves competent satisfactorily to deal with, the Collector may, with the previous sanction of the Commissioner, issue a certificate under section 6 of the Act authorizing the Civil Court to try the case.

Claims falling under class (c) shall be disposed of by the Collector if the question at issue between the parties is not of a complicated or difficult nature; but if the claimant applies for a certificate under section 6 of the Act, and sets forth satisfactory reasons for such application, or if the question at issue between the parties appears to be of a complicated or difficult nature, or if the claim is one which if awarded could only be enforced by a Civil Court,

\*These Rules have been adapted to Sind under Government Resolution No. 7171 of 28th November 1880.

The Rules known as the "Amended Rules of 1842," under which cash allowances were adjudicated, have the force of law under the Pensions Act in this Presidency, but are now seldom required.

the Collector may issue a certificate under the said section 6 authorizing the Civil Court to try the case: Provided that no certificate shall be issued for any case which could not be decided by the Civil Court in favour of one or more of the parties thereto without making an order or decree such as it is prohibited from making by the said section.

5. Except in the cases provided for in the last paragraph of Rule 7, no claim by which the liability of Government to pay any pension or grant is affected directly or indirectly shall be disposed of by a Collector without first obtaining the sanction of the Commissioner of the Division to the order which he proposes to pass.

Previous sanction of Commissioner when necessary to final order of disposal.

6. Any claim preferred to a Collector under section 5 of the Act may be referred by him for inquiry to any Assistant or Deputy Collector or other officer subordinate to him, and every Assistant or Deputy Collector in charge of talukas may receive claims on behalf of the Collector and forward the same with his opinion after inquiry to the Collector; but every order for disposing of a claim or for granting a certificate under section 6 shall be made with the previous sanction of the Commissioner by the Collector himself.

Reference of claims for inquiry to subordinate officers.

7. Claims relating to pensions or grants are to be disposed of in accordance with—

Law, &c., to be observed in disposal of claims.

(a) The law, if any, for the time being in force applicable to such claims.

(b) The terms and conditions of the sanad or other document, if any, under which such pensions or grants are enjoyed.

(c) The rules or orders of Government for the time being in force if applicable to such claims.

But if any claim is brought, the subject-matter of which has been already inquired into and disposed of by competent authority, the Collector will merely record the fact of such previous decision, and dispose of the claim accordingly.

## II.—Under Section 8.

8. All payments of pensions or grants are usually to be made in one lump sum for the year commencing on the 1st May and ending 30th April, but applications for their payment by monthly or quarterly instalments may be considered and disposed of by the Collectors, subject to the sanction of the Commissioners.

Payments to be for the year commencing 1st May, but may be made in instalments.

9. Pensions and grants, for the payment of which application is duly made at the proper period, will be paid in full, except in the case of payment being suspended, pending the orders of a Civil Court or

Payments of arrears.

pending inquiries by Government or by any officer of Government. But if, owing to non-application or other neglect on the part of the claimants, such payments fall into arrear, the pensions or grants will be paid as follows :—

For the current year, in full.

First year's arrears, in full.

Second do., subject to a deduction of 10 per cent.

Third do., do. 20 do.

Fourth do., do. 30 do.

Fifth do., do. 40 do

Provided that no deduction shall be made under Rule from arrears of payments due (1) on account of village dewasthán allowance not exceeding Rs. 5 per annum in amount, or (2) under compensation bonds.

The "current year" means the year within which payment is properly due under Rule 14.

10. Subject to the provisions of Rule 9, Collectors may authorize the payment of arrears due to a deceased person after such investigation as shall satisfy them—

Payment of arrears due to deceased persons.

Collectors may authorize the payment of arrears due to a deceased person after such investigation as shall satisfy them—

(a) of the actual date of such person's death, and

(b) that the applicant is entitled as such person's legal heir, or otherwise, to receive payment.

11. Any pension or grant for payment of which no application is duly made for more than six years, is to be struck off the books, and all arrears forfeited.

Pension or grant not drawn for six years to lapse.

no application is duly made for more than six years, is to be struck off the books, and all arrears forfeited.

But if the pension or grant is held under a permanent or hereditary title, it may be re-admitted without payment of arrears if a claim thereto is duly preferred under section 5 of the Act within twelve years from the date of the last payment.

But in certain cases may be re-admitted.

permanent or hereditary title, it may be re-admitted without payment of arrears if a claim

12. The date on which application for payment was made must be noted by the disbursing officer on all bills for arrears.

Date of applications for arrears to be noted.

was made must be noted by the disbursing officer on all bills for arrears.

### III.—Under Section 14.

13. Pensions or grants will be paid at the following places, namely :—

Place of payment of pensions and grants.

Pensions or grants will be paid at the following places, namely :—

(1) If payable on behalf of a religious institution, at the treasury of the district or taluka in which such institution is situated, when the amount of the pension or grant exceeds Rs. 5 per annum, or, whatever the amount, when there is no hereditary patel in the village in which such institution is situated, and through the patel of the village in which such institution is situated when the amount does not exceed Rs. 5 per annum and there is an officiating hereditary patel in such village.

(2) If payable on behalf of a religious institution in foreign territory, at the nearest Government Treasury.

(3) If the pension or grant is personal, at the treasury most convenient to the recipient.

Orders for permitting transfers of payment under the above clause (3) will be made by the Collectors if the transfer sought is from one treasury to another within the same Collectorate, by the Commissioners if the transfer sought is from a treasury in one Collectorate to a treasury in another Collectorate within the same division, and by Government in any other case.

14. All pensions and grants shall be deemed to be due on the 1st May next after the completion of the year in respect of which they are payable, but shall ordinarily be payable only in the months respectively fixed, or hereafter to be fixed, by or under the orders of Government for payment of pensions and grants of the various descriptions. But when payment in monthly or quarterly instalments has been directed by the Collector under Rule 8, payments will be made in accordance with such direction.

15. Pensions and grants will 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 or mukhtyárs, or, if they are minors, to their administrators.

Except as is otherwise provided in Rule 23, payments will be made to an attorney, mukhtyár or administrator only, on his satisfying the disbursing officer by the production of a certificate, signed by a Magistrate or by some other well known person of respectability, that the payee was living on the last day of the year or other period for which the pension or grant is due.

16. In the case of pensions or grants which Government recognize as alienable, the name of the lawful holder for the time being shall, subject to the provisions of Rules 17 and 18, be entered in the records as payee.

But if any such pension or grant is continuable by Government only so long as the original grantee and certain of his descendants shall be in existence, and the payee has obtained a transfer of the same by sale, gift, mortgage, or the like, such payee must produce at the time of each payment a certificate from the Mámlat-dár or Mahálkari of the táluka or mahál in which the original grantee or his descendants reside, or, if their residence be in foreign territory, of some British officer resident in the said territory, that such grantee or his said descendants (who should invariably be named) on whose behalf payment is claimed was or were alive on the last day of the year or other period for which such payment is due.

17. Applications for mutation of payees' names in the records shall be received and disposed of by the Collectors.

Mutation of payees' names. In the case of a transfer of any pension or grant which Government recognize as alienable, such mutation may be made on obtaining the consent in writing of the existing payee without further inquiry.

In the case of the death of a payee, the Collector may require the production by the applicant of a certificate of heirship and of such other evidence as he deems fit.

But whenever there is any dispute between conflicting parties, and whenever the Collector doubts whether the pension or grant is any longer continuable, the application shall be regarded by him as a claim under section 5 of the Act, and shall be dealt with accordingly.

Any mutation of names rendered necessary by the decision in any claim under section 5 of the Act (including applications of the nature specified in the last preceding paragraph of this Rule) may be made by the Collector without further investigation.

18. As a rule, the name of one person only will be entered as payee of each separate entire pension or grant.

Whose name may be entered as payee. In the case of two or more joint transferees of a pension or grant which Government recognize as alienable, they must elect which one's name shall be so entered, and in the event of their failing so to do within such period as shall be fixed by the Collector, the Collector shall enter the name of such one of them as he deems fit.

In the case of joint-heirs, the Collector will determine who is the eldest male representative of the senior surviving branch of the original grantee's or of the transferee's family, or, in the absence of male heirs, who is the senior heiress, and enter his or her name as payee: Provided that at the request of the person thus entitled to be entered as payee, the name of any other member of the family may be substituted by the Collector for that of the said person during such person's lifetime.

19. If any pension or grant has been hitherto entered in the records in the joint names of two or more persons, or, if any division of a pension or grant has been recognized, and the shares entered separately in the names of the respective co-sharers, such entries may

hereafter be continued; but no such new entries shall be made in the records except with the previous sanction of the Commissioner, which shall be given only under very special circumstances.

But Collectors may, on written application, sanction sub-divisions of pensions or grants by disbursing officers at the time of payment by special written order in each case.

20. Whenever, in consequence of disagreements amongst joint-payees or for any other reason, their joint receipt shall not be obtainable for any payment already due, the Collector may authorize such payment to be made to any one or more of such joint payees who are willing to pass a receipt.

21. The persons recorded as the payees of pensions or grants, and the persons to whom any payment may be made under the last preceding Rule, are not necessarily entitled to appropriate the whole of such pensions, grants or payment to themselves, but are responsible for distributing the same to all co-sharers or sub-sharers in the proportions to which they are respectively entitled.

22. Except, as is otherwise provided in Rule 23, a descriptive roll in the form of Appendix A. shall be kept by the disbursing officer of every payee entitled to receive payment of a pension or grant from him. A copy of such roll under the disbursing officer's signature shall be furnished to the payee for production by him at the time of each payment, which shall be noted therein in the manner shown in the form.

The person applying for payment must be identified by comparison with the particulars given in the descriptive roll, and the disbursing officer should take every precaution against fraudulent personation. When the payee can write, his signature should, at the time of payment, be compared with that in the descriptive roll in the disbursing officer's possession.

23. Descriptive rolls and life-certificates may be dispensed with in the case of natives of rank and pardah-posh ladies; but the disbursing officer will not on that account be exempt from the general responsibility which necessarily attaches to all payments.

Descriptive rolls will not be necessary in the case of pensions or grants on account of native religious or charitable institutions which are paid to panchs or committees or to the village patels, nor in the case of payees of allowances which have been declared to be continuable hereditarily.

24. Each Commissioner will prepare under his signature lists in English and in the vernacular of all pensions and grants in each Collectorate in his Division and furnish printed copies thereof to the Mámlatdárs, the Collectors, their Assistants and Deputies, the Accountant General and to Government.

Printed lists to be kept of sanctioned pensions and grants.

Where such lists have already been prepared under the signature of the Alienation Settlement Officer, new ones need not be prepared.

25. A monthly statement of all proposed alterations in or additions to the said lists in consequence of decisions or orders passed during the preceding month affecting the same, shall be submitted by each Collector, on such date as may be fixed for their submission in communication with the Accountant General, to the Commissioner of the Division, who shall cause the same to be promptly scrutinized in his office, and, after countersigning the same, shall cause duplicate thereof to be sent to the Accountant General with the orders of the Commissioner duly recorded thereon; and shall also direct that the lists in his own office and in the various offices in the Collectorate shall be corrected accordingly. The Accountant General shall also correct his lists in accordance with the duplicate copy of the statement so countersigned and forwarded to him.

Monthly correction statements to be submitted to the Commissioners.

No pension or grant shall be entered in, or struck out from, the accounts or the said lists, except with the previous sanction of the Commissioner.\*

26. Disbursing officers will, on the 1st of May of each year, or as soon after as possible, prepare ledgers (peta-khátawahis) agreeably to the táluka forms Nos. 21 and 22 contained in Hope's Manual of Accounts, and will keep books in the táluka forms Nos. 11 and 12 contained in that Manual, and will be held responsible for the correctness of the entries in these ledgers and books and for their being properly filled in from time to time.

27. Sanads in the name of the Secretary of State for India in Council will be executed by the Collectors, as authorized in the Government of India's Resolution No. 684, dated 31st May 1873, Home Department (*vide* Government Resolution No. 3518, dated 14th June 1878, Judicial Department), in favour of the payee or payees for the time being of every pension or grant in respect of which the issue of such sanads has been or may hereafter be sanctioned by Government. Such sanads will be issued once for all, and sanads

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\* Rule 25 is here altered in accordance with Government Resolution No. 1237 of 24th February 1882, which also requires that any instances of unnecessary delays on the part of the Collectors in the transmission of their returns shall be brought to the notice of Government.

already issued by Alienation Settlement Officers or by Collectors, or by any other officer authorized by Government in this behalf, shall be deemed to have been issued under this Rule.

The terms and conditions to be inserted in these sanads will be such as Government may from time to time authorize, or as may already have been so authorized.

28. Registers of these sanads will be kept by each Collector, and a general register by each Commissioner.

The said registers shall be open to public inspection during office hours, and extracts from the same shall be obtainable, subject to the same rules and to the payment of the same fees as apply to the case of registers of the documents mentioned in clause (d), section 90 of the Indian Registration Act, 1877.

29. Reference to the Civil Court under section 6 of the Act of any person claiming a right of succession to or participation in any pension or grant, or any other right relating to any pension or grant, shall be made in accordance with Rule 4 by the Collectors, granting to such person a certificate in the form of Appendix B. authorizing the Civil Court to try the case set forth in such person's claim.



*Additional Rulings and Orders.*

1. *Toda giras haks* are within the scope of the Pensions Act, 1871, and a suit in respect of them must be brought under certificate required by section 6.

The word *hak*, "allowance" or "fee," is equivalent to the word "right" in section 3. (I. L. R. 1 Bom. 203.)

2. Section 4 of the Act debars the Civil Court from taking cognizance of any suit relating to pension, &c., whether Government is a party to it or not, without a certificate. Section 6 enables the Revenue Officer to refer the parties to the Civil Court for the determination of their respective interests in the income or other benefit, which the executive will, however, still, as against either or both of the litigants, be at liberty to allow or to withhold.

Lands held free of assessment under a grant from Government, bestowing the land, not merely the revenue, are not within the scope of the Act. (I. L. R. 1 Bom. 75.)

3. A *toda giras hak* is not exempted from attachment under a decree of a civil court by section 11 of the Pensions Act. (I. L. R. 4 Bom. 432.)

4. Though sanadi grants in *inám*, *saranjám*, &c., are, generally speaking, alienations of land revenue and not grants of land, this is not invariably the case. The ownership in the soil passes if words are employed in the grant which expressly, or by necessary implication, indicate an intention of transfer of such ownership.

The Pensions Act, as an arbitrary enactment, should be construed strictly, and the words "grant of money or land revenue" do not include a grant of the proprietorship of the soil. (I. L. R. 1 Bom. 523.)

5. A suit for a declaration of eligibility to officiate as *patel* is not prohibited by the Act.\* (I. L. R. 1 Bom. 531.)

6. A *saranjám* is ordinarily impartible, and, *semble*, a political pension granted in substitution of a resumed *saranjám* is so likewise. The Pensions Act prevents the court declaring such a pension partible, unless the Collector should authorize it to do so; and the fact that the Collector authorizes a suit for maintenance out of such a pension, affords no ground for presuming that he authorizes a suit for partition of the pension. (I. L. R. 2 Bom. 346.)

7. A suit against Government upon an alleged agreement by Government to pay money from its treasury in lieu of *toda giras hak* is prohibited by section 4 from being entertained, whatever may have been the consideration for such grant, or the nature of the payment, claim, or right for which such grant may have been substituted. *Quere*, whether Government is bound perpetually to collect *toda giras* for the *girásías*, and whether specific performance of such a contract could be enforced. (I. L. R. 4 Bom. 437.)

8. A grant in *jágir* or *saranjám* is very rarely grant of the soil. As a general rule they are grants of land revenue only to which the Pension Act is applicable. (*Vide* page 231 of printed Judgements of 1882, and also Appendix A of Part VI of this compilation.)

\* But see the rulings given in No. 4 of Additional Rulings and Orders in Part III. (2). This ruling applies to suits brought before Bombay Act III. of 1874.

APPENDIX A. (See Rule 22.)

Form of Descriptive Roll.

Running No.	No. in the Alienation List or Pesa Khatiwahi.	Name.	Caste or Sect.	Residence.	Personal Identification.	Height.	Age at the date of preparing the Roll.	Monthly Quarterly, Half-yearly, or Yearly Amount.	How long controllable.	Signature of the party whose Descriptive Roll is prepared.	Signature of Witnesses of identification.	Signature of the Officer before whom the Descriptive Roll is taken.	Date of preparing the Roll.	REMARKS.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

PAYMENTS.

When paid.	For what period.	Amount.	To whom paid.	Signature of the Disbursing Officer.	When paid.	For what period.	Amount.	To whom paid.	Signature of the Disbursing Officer.	When paid.	For what period.	Amount.	To whom paid.	Signature of the Disbursing Officer.

APPENDIX B. (See Rule 29.)

Form of Certificate.

Whereas *A. B.* of claim against *C. D.* of

is desirous of preferring a to establish his right to

(here state clearly the nature of the claim)

This is to certify that I, *E. F.*, Collector of \_\_\_\_\_, do hereby allow, under Section 6 of the Pensions Act, 1871, that the said claim may be tried by any Civil Court otherwise competent to try the same.

(Signed) *E. F.*,  
Collector.

Dated at this \_\_\_\_\_ day of \_\_\_\_\_ 18 .



**PART X.**

**(1) RULES UNDER THE INDIAN STAMP ACT, 1879.**

**CHAPTER I.—Preliminary**

1. These Rules shall come into force throughout British India on the 1st April 1882 in supersession of the Rules promulgated by Notifications No. 875, dated 26th February, and No. 966, dated 4th June 1881.

2. All words and expressions used in these Rules and defined in the Indian Stamp Act, 1879, shall be deemed to have the meaning attached to them respectively by the said Act.

3. There shall be two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, 1879, namely—

(a) Impressed Stamps, including—

Impressed Sheets,—that is to say, sheets of paper bearing the impression of stamps of different values engraved thereon and sold to the public for use by them in accordance with these Rules.

Impressed Labels,—to be affixed and impressed by Government officers as directed in Chapter III. of these Rules.

(b) Adhesive Stamps sold to the public for use by them in accordance with these Rules.

**CHAPTER II.—Of Impressed Sheets.**

4. All instruments chargeable with duty, except hundis, may be written on impressed sheets, and, except as provided by section 10 of the said Act and by these Rules, shall be so written.

5. (a) When any instrument is to be written on an impressed sheet, if the amount of duty with which such instrument is chargeable does not exceed one hundred rupees, a single sheet shall be used, unless—

where the application for the required stamp is made at a treasury, the officer in charge of such treasury, or,

where such application is made to a stamp-vendor, the vendor certifies that he is unable to furnish a single stamp of the required value.

(b) When the amount of duty chargeable in respect of any instrument exceeds one hundred rupees, or a treasury officer or stamp-vendor has certified under clause (a) that he is unable to furnish a single stamp of the required value, the number of sheets used for indicating the payment of duty shall not exceed the number which the treasury-officer or the stamp-vendor certifies in either case to be the smallest number which he can furnish so as to make up the required amount.

(c) No certificate shall be made under clause (a) or clause (b) by a stamp-vendor in any case in which the stamp-duty required exceeds the highest value of the stamps which such vendor is authorised to sell.

(d) When, under this Rule, two or more impressed sheets are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each sheet so used.

(e) When a single sheet used under this Rule is found insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument: Provided that in every such case the side of the sheet which bears the stamp must be covered by a substantial part of the instrument before any part of the latter can be written on the plain paper joined to such sheet. Provided further, that the part of the instrument written on the plain paper must be attested by the signatures or marks of all the persons executing the document and the witnesses to the same.

6. (a) Hundis other than hundis which can be stamped with an adhesive stamp under section ten of the said Act shall be written as follows:—

(1) Hundis payable otherwise than on demand, but not more than one year after date or sight, and for amounts not exceeding Rs. 30,000 in individual value, on impressed sheets bearing the word Hundi;

(2) Hundis exceeding Rs. 30,000 in individual value, and Hundis payable at more than one year after date or sight, on paper supplied for sale by the Government, and to which labels have been affixed by one of the officers mentioned in Rule 9, clause (b), or by the Superintendent of Stamps, Calcutta, and impressed by him in manner provided by Rule 10.

(b) Every sheet of such stamped paper shall be of a size not less than  $8\frac{5}{8} \times 5\frac{1}{8}$  inches, and no plain paper shall be joined to it.

(c) The provisions in Rule 5 as to use of two or more sheets of stamped paper when a single stamp of the required value is not procurable apply also to Hundi stamps used under this Rule.

7. The duty payable on any instrument chargeable with a duty of one anna may be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps at Calcutta, Bombay, Madras, or Rangoon.

#### CHAPTER III.—Of Impressed Labels.

8. Impressed labels may be used for the following instruments and counterparts thereof, namely,—

- (1) Administration-bonds;
- (2) Affidavits;
- (3) Appointments made in execution of a power;
- (4) Articles of association of a company;
- (5) Articles of clerkship;
- (6) Bills of lading;

- (7) Charter-parties ;
- (8) Declarations of trust ;
- (9) Instruments evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property ;
- (10) Leases printed or lithographed in an Oriental language, when the written matter filled in does not exceed one-fourth of the printed matter ;
- (11) Memoranda of association of companies ;
- (12) Notes of protest ;
- (13) Petitions for leave to file a specification of an invention, &c. ;
- (14) Policies of insurance ;
- (15) Revocations of trust ;
- (16) Warrants for goods ;

and for the following—when written in any European language, provided that any instrument written in any European language other than English shall have attached to it a translation in the English language—

- (17) Agreements or memoranda of agreements which, in the opinion of the officer empowered to affix the label, cannot conveniently be written on impressed sheets ;
- (18) Instruments engrossed on parchment and written in the English style, which in the opinion of such officer cannot conveniently be written on impressed sheets ;
- (19) Awards ;
- (20) Bills of exchange payable otherwise than on demand and drawn in British India ;
- (21) Bonds ;
- (22) Certificates of sale ;
- (23) Composition-deeds ;
- (24) Conveyances ;
- (25) Instruments imposing a further charge on mortgaged property ;
- (26) Instruments of apprenticeship ;
- (27) Instruments of co-partnership ;
- (28) Instruments of dissolution of partnership ;
- (29) Instruments of exchange ;
- (30) Instruments of gift ;
- (31) Instruments of partition ;
- (32) Leases ;
- (33) Letters of license ;
- (34) Mortgage-deeds ;
- (35) Powers of Attorney ;
- (36) Reconveyances of mortgaged property ;
- (37) Releases ;
- (38) Settlements ;
- (39) Transfers of the description mentioned in Article No. 60, clauses (b), (c) and (d) of the First Schedule of the said Act.

9. The following officers are empowered to affix these labels to the instruments mentioned in Rule 8, namely,—

- (a) the Collectors of Calcutta and Karáchi ;
- (b) the Superintendents of Stamps at Madras, Bombay, Lahore, Rangoon, Maulmain and Akyab ;

(c) the Commissioner of Stamps, North-Western Provinces and Oudh;

(d) the Superintendent of Stamps (Political Resident), Aden.

10. (a) Every such officer shall, upon any instrument mentioned in Rule 8 being brought to him before it is executed, and application being made to him for that purpose, affix thereto a label or labels of such value as the applicant may desire and pay for, and impress such label or labels by means of a stamping-machine, and also stamp or write on the face of the label or labels the date of impressing the label or labels before returning the instrument to the applicant. In the case of instruments written on parchment, the labels must be further secured by metallic eyelets.

(b) When the stamp-duty amounts to five rupees or upwards, such officer shall further write on the face of the label or labels his initials, and, when the stamp-duty amounts to Rs. 20 or upwards, shall also attach his usual signature to the instrument, immediately under the labels.

11. (a) The payment of duty on instruments (other than bills of exchange, cheques, and promissory notes) executed out of British India and requiring to be stamped after their receipt in British India, shall be indicated only by impressed labels.

(b) When any such instrument is taken to the Collector under section 17 of the said Act, the Collector, unless he be Collector of Calcutta or Karachi, shall send the instrument to one of the officers mentioned in Rule 9, remitting the amount of duty paid in respect of such instrument; and such officer shall stamp the instrument in the manner prescribed by Rules 10 (a) and 10 (b), and return the same to the Collector for delivery to the person by whom it was produced.

#### CHAPTER IV.—*Adhesive Stamps.*

12. Bills of exchange, payable otherwise than on demand and drawn in sets, when the amount of stamp-duty does not exceed one anna for each part of the set, may be stamped with adhesive stamps.

13. Except as otherwise provided in these Rules the adhesive stamp used to denote the duty of one anna shall bear the words "one anna."

14. The following instruments, when stamped with adhesive stamps shall be stamped as follows:—

(a) Bills of exchange, cheques, and promissory notes drawn or made out of British India, with adhesive stamps bearing the words "Foreign Bill"

(b) Transfers of shares of public companies and associations, with adhesive stamps bearing the words "Share Transfer."

(c) An entry as an advocate, vakil, or attorney on the roll of any High Court with an adhesive stamp bearing the word "Advocate," "Vakil," or "Attorney."

(Such stamp shall be affixed under the superintendence and responsibility of a gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps and account to him for it. The gazetted officer who affixes the stamp

shall write on the face of it his usual signature and the date of signature before parting with the instrument.)

(d) Notarial acts with adhesive Foreign Bill stamps bearing the word "Notarial" printed over them.

CHAPTER V.—*Miscellaneous.*

15. When it is necessary under section 15 of the said Act to denote upon one instrument the payment of duty in respect of another, such payment shall be denoted by an endorsement under the hand of the Collector on the former instrument.

16. Every payment made under section 30 of the said Act shall be made in cash.

17. The Collector may require every person claiming a refund or renewal under Chapter VI. of the said Act, or his duly authorized agent, to make an oral deposition on oath or affirmation, or to put in an affidavit, setting forth the circumstances under which the claim has arisen. The Collector may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in the deposition or affidavit of the claimant or his agent.

18. Any Magistrate convicting or trying an offender under Chapter VIII. of the Stamp Act may grant to any person who may have contributed to the conviction, a reward within a limit to be fixed by the Local Government.

*Rules under Section 55.*

1. For the purposes of these Rules stamps are divided into three classes :—

Class I., *Impressed stamps*—that is to say, sheets of paper bearing the impression of stamps of different values engraved thereon and sold to the public for use by them in accordance with the Rules published in the *Bombay Government Gazette* under Government Notifications No. 1251 dated 2nd March 1881 (republishing Government of India's Notification No. 875 dated the 26th February 1881), and No. 3300 dated the 8th June 1881 (republishing Government of India's Notification No. 966 dated 4th idem), and *Hundi stamps*, that is, papers supplied for sale by the Government, and to which stamped labels have been affixed by one of the officers mentioned in Rule 7, clause (b) of the above-mentioned Rules, and defaced by him in manner provided by Rule 8.

NOTE 1.—A lease, for one year certain, containing an expression on the tenant's part of readiness to hold the land longer at the same rent if the landlord should desire it, is a lease for a term not exceeding one year. (I. L. R. 2 Bom. 21.)

2. 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 Stamp Act, 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. (*Bombay Government Gazette* of 9th March 1881.)

3. The whole consideration in respect of which a judicial sale is liable to duty (when the sale is made subject to a mortgage lien) is the sum of the purchase-money and the principal money (but not the interest) due at the time of the sale on such mortgage. (I. L. R. 5. Bom. 470.)

Class II., *Adhesive stamps*\*—that is, stamps sold to the public for use by them in the case of instruments mentioned in Section X. of the said Act.

Class III., *Impressed labels*—that is, stamps affixed only by Government officers in the manner prescribed in the above-mentioned Notifications.

2. Stamps in Class I. shall be sold by *ex-officio* and licensed vendors in accordance with these rules.

3. Stamps in Class II. shall be sold as follows :—

*India Revenue and Foreign Bill Stamps*—By *ex-officio* and licensed vendors.

*Stamps for Notarial acts and for Transfer by endorsement of Shares of Public Companies and Associations*—By *ex-officio* vendors only.

4. Such officers as Government may appoint shall be *ex-officio* vendors, who shall sell such stamps as they may be directed. The Treasurer of each Local Treasury shall be an *ex-officio* vendor of stamps.

5. In the Presidency Town there shall be two *ex-officio* vendors of stamps who shall be members of the establishment of the Superintendent of Stamps. The duties of one of these *ex-officio* vendors shall be confined to the sale of stamps of Class I. The second *ex-officio* vendor shall sell stamps of Class II.

6. Such persons as may be licensed by the Collector or other officer empowered by Government to grant licenses shall be licensed vendors, who shall sell such stamps as may be indicated in their licenses and no others.

7. Every license granted under the last Rule shall be in the following form :—

“To

LICENSE No.

Bombay,

Dated

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You are hereby authorized to sell stamps of the following description (that is to say) :—

(here insert description of stamps)

at (here insert the No. of the house and name of street, &c., at which the stamps are to be sold) in the { City of Bombay }  
or Taluka }

subject to the provisions of the rules from time to time in force under Section 55 of the Indian Stamp Act, 1879.

(Signed)

Collector (or other officer empowered under Rule 6).

\* The rules relating to *postage labels* sold to the public for use are given in Part XVII Miscellaneous. The Stamp Act does not apply to postage stamps. Any persons may be *bona fide* retail vendor of postage stamp label.

The Stamp Act is applicable to the sale of receipt-stamps, and any person who is not appointed under the rules made under Section 55 of the Act to sell or offer for sale such stamps is liable to punishment under section 68. G. R. 2763 of 27th April 1882.



NOTE.—This license is revocable at any time by the Government of Bombay or by the Collector of.....”

8. Every license shall be revocable at any time by Government or by the authority who granted it.

9. The following rates of discount shall be allowed to licensed vendors and the public :—

(1) Stamped papers (including Hundi stamps)—

To vendors licensed at places where stamps are sold by Government ... .. Rs. 3 per cent.

To vendors licensed at other places ... .. „ 5 do.

(2) Adhesive stamps—

To vendors licensed at any place—

On stamps not exceeding in value 8 annas each, in quantities of not less than Rs. 5 in amount ... .. Rs. 3½ per cent.

On stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each, in quantities of not less than Rs. 50 in amount. „ 2 do.

On stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each, in quantities of not less than Rs. 100 in amount. „ 1½ do.

To the public—

On stamps not exceeding in value 8 annas each, in quantities of not less than Rs. 5 in amount ... Re. 1 do.

On stamps exceeding in value 8 annas each, but not exceeding in value Rs. 5 each, in quantities of not less than Rs. 50 in amount ... „ 1 do.

On stamps exceeding in value Rs. 5 each, but not exceeding in value Rs. 50 each, in quantities of not less than Rs. 100 in amount... „ 1 do.

NOTE.—Licensed vendors will not be allowed any discount on the purchase of any general stamp of which the value is more than Rs. 50.

10. Licensed vendors shall ordinarily be required to pay ready money for all stamps supplied to them. But stamps of Class I. may be issued on credit at such places as may be specially sanctioned by Government: Provided that the vendors give sufficient security to cover the value of stamps issued to them, and that the discount allowed on the sale of such stamps shall in no case exceed two per centum.

11. Every licensed vendor shall at all times have stuck up in a conspicuous station, outside his place of vend, a sign-board bearing, in English and in the

vernacular language of the district, his name and the words "Licensed Vendor of Stamps." He shall also have in his place of vend, placed so that they can readily be seen and read by purchasers, a copy of the Indian Stamp Act and of its schedules, and a copy of these rules in English and the said vernacular, with copies of all Notifications of the Governor General in Council modifying or in any way amending the schedule of stamp rates.

12. Every *ex-officio* or licensed vendor shall with his own hand write on the back of every stamp of Class I. which he sells a serial number, the date of sale, the name and residence of the purchaser (*i.e.*, of the person for whom the stamp is bought), and the value of the stamp in full in words and his own ordinary signature; at the same time he shall make corresponding entries in a register to be kept by him in the following form:—

Date.	Serial Number.	Description of Stamps.	Value of Stamps.	Name of Purchaser.	Residence of Purchaser.

No vendor shall knowingly make a false endorsement on the stamp sold or a false entry in his register.

13. Stamp vendors shall take care that certificates given by them under clause (a) or clause (b) of Rule 5 of the rules promulgated by the Government of India under Notification in the Department of Finance and Commerce No. 875, dated 26th February 1881, are true certificates.

14. No certificate shall be made by a stamp vendor under clause (a) or clause (b) of Rule 5 referred to in the preceding Rule 13 in any case in which the stamp-duty required exceeds the highest value of the stamps which such vendor is authorized to sell.

15. Every licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale on demand by any person tendering the value in any currency which would be accepted on behalf of Government by the Collector of the district. A licensed vendor shall not demand or accept for any stamp any consideration exceeding the value of such stamp.

16. No vendor shall sell any stamps the use of which has been ordered by competent authority to be discontinued.

17. Except at the Presidency Town, the accounts to be kept and rendered by licensed vendors shall be in accordance with the forms prescribed in Hope's Manual of Revenue Accounts or by Government.

18. At the Presidency Town each licensed vendor shall keep a book, showing in detail the supplies purchased from the Stamp Office and the daily sale.

At the close of each month he shall submit to the Superintendent of Stamps a statement in the form of Appendix A.

19. Licensed vendors must give security for the due performance of their duties. The security bond to be taken from them shall be in the form of Appendix B. The amount of the security shall be fixed in each case by the Collector or other authority who gives the license, but as stamps will ordinarily only be supplied to the licensees on payment of ready money, it need not be large.

20. No licensed vendor shall at any time offer any objection or resistance to the inspection of his register or the examination of the store of stamps in his possession by any officer duly authorized by the Collector or by Government to make such inspection or examination.

21. Every licensed vendor shall, at any time, on the demand of the Collector or other officer duly authorized by Government, deliver up all stamps of Class I. remaining in his possession: Provided that, if such stamps have been paid for, he shall be entitled to receive back the value thereof, less any discount which he may have been allowed.

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*Additional Order.*

Under Chapter VI. of the Indian Stamp Act, 1879, provision is made for the renewal or refund of the value of stamps spoiled or rendered useless, or which for any reason are not required by the possessor, on the condition that the application for such renewal or refund shall be made within six months from the date on which the stamp was spoiled, or on which it was rendered useless, or on which it was purchased.

Instances have occurred in which this limit has operated as a serious hardship. Without any fraudulent motive, holders of spoiled or useless stamps are sometimes unavoidably prevented from applying for refund or renewal within the prescribed period, and so cannot, under the provisions of the Act, obtain any relief. In such cases an order of the Government of India is now necessary before refund can be sanctioned. For the future the Governor General in Council authorises Local Governments 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 date on which the stamp has been spoiled or rendered useless. (G. R. 601 of 28th January 1881.)

The sanction of the Local Government should be obtained in each case. (G. R. 1472 of 11th March 1881.)

(2)—RULES UNDER THE COURT FEES  
ACT, 1870.\*

*Rules for the sale of Court Fees Stamps.*

1. The Office of the Superintendent of Stamps at Bombay shall be the Head Central Depôt for Court Fees Stamps.

2. Each Huzûr or Collector's Treasury shall be regarded as a Central Depôt. Each District Treasury, and each Civil, Judicial, and Magisterial Court or Public Office, or as many of each as the Local Government may prescribe, shall be a Sub-Depôt for Court Fees Stamps.

3. Court Fees Stamps will be sold at all the Treasuries in the Bombay Presidency and Sind, and in all, or as many, Civil, Judicial, and Magisterial Courts and Public Offices, as the Local Government may prescribe.

4. The Treasuries of Political Agents shall also be Central Depôts for the districts placed under their charge.

5. Sub-Depôts shall be considered as subordinate to the Central Depôts. Court Fees Stamps will be sold to the public at each Central and Sub-Depôt for cash only.

6. The sale of Court Fees Stamps shall be conducted by such public officers, being members of the regular establishments of Central and Sub-Depôts, as the officers in charge thereof shall appoint.

7. No special remuneration will be allowed to public officers for conducting the sale of Court Fees Stamps.

8. No discount will be allowed on sales of Court Fees Stamps.

9. Each public officer who shall be appointed to sell Court Fees Stamps may be required to give security for the proper performance of his duties, if such appears necessary to the head of the Office or Court in which the vend of the stamps is to be conducted.

*Supplementary Rules for the sale of Court Fees Stamps.*

1. The Office of the Superintendent of Stamps at Bombay shall be the Head Central Depôt for Court Fees Stamps.

2. Each Huzûr or Collector's Treasury shall be regarded as a Central Depôt. The Treasuries of Political Agents shall also be Central Depôts for the districts placed under their charge. Each Taluka and Mahâl Treasury shall be a Sub-Depôt for Court Fees Stamps.

\* The valuation of suits for the purpose of jurisdiction is perfectly distinct from their valuation for the fiscal purpose of Court-fees. (L. L. R. 4 Bom. 515.)

3. Court Fees Stamps will be sold at all Treasuries in the Bombay Presidency, and by such persons as may be licensed to sell stamps by the Collector or other officer empowered by the Local Government to grant licenses. The Treasurer of each Treasury, and any salaried persons as may be appointed by the Local Government, shall be *ex-officio* vendors of Court Fees Stamps.

4. *Ex-officio* vendors shall not be required, except in the Town of Bombay, to sell Court Fees Stamps of a lower value than 50 rupees each. Court Fees Stamps of lower values shall be sold by the licensed vendors.

5. Every license shall be revocable at any time by the Local Government, or by the authority who granted it. Every license shall specify the name of the licensee, the description of stamps which may be sold under the license, and the place of vend, and it shall be signed by the authority granting it. The license shall be in the form annexed to these Rules.

6. Court Fees Stamps shall be sold to the public for cash only. Licensed vendors of such stamps shall receive such a rate of discount as may be ordered by the Local Government, but not exceeding a rate of two rupees per cent. on all purchases of Court Fees Stamps from a Central or Sub-Depôt. Licensed vendors will be required to pay cash for Court Fees Stamps purchased by them. No discount shall be given on account of the purchase by a vendor of any stamp of 50 rupees or upwards in value.

7. Every licensed vendor shall have at all times posted in a conspicuous position outside his place of vend, a sign-board bearing the name of the vendor with the words "Licensed vendor of Court Fees Stamps," in English and in the vernacular of the district. He shall also have in the place of vend the Acts of the Legislature, and the schedules referring to the stamps sold by him, together with these Rules in English and the vernacular, placed so that they can readily be seen and read by purchasers.

8. In the case of impressed stamps, every *ex-officio* or licensed vendor shall write, on the back of every such stamp which he sells, the date of sale, the name and residence of the purchaser, and the value of the stamp in full in words, and his own ordinary signature, at the same time he shall make corresponding entries in a register to be kept by him in the form prescribed in Rule 13. No such vendor shall knowingly make a false endorsement on the stamp sold, or a false entry in his register.

9. Every licensed vendor of Court Fees Stamps shall, without delay, deliver any stamp which he has in his possession for sale, on demand by any person tendering the price thereof.

10. No vendor shall sell any stamps the use of which has been ordered by a competent authority to be discontinued. On returning such stamps to the Depôt within six months from the date of such order

of discontinuation, he shall be entitled to receive back the value thereof, less any discount which may have been allowed.

11. Every vendor shall keep and render such account as may be prescribed by the Local Government, and shall allow the Collector of the district or any officer duly authorized by such Collector or by the Local Government, at any time, to inspect such account and the register which he is required to keep under Rule 8, and to examine the store of stamps in his possession.

12. Every vendor shall, at any time on the demand of the Collector or other officer duly authorized by the Local Government, deliver up all stamps remaining in his possession; and, if such stamps have been paid for, shall receive back the value thereof, less any discount which may have been allowed.

13. The register required to be kept under Rule 8 shall be in the following form :—

Date.	Description of Stamp.	Value of Stamp.	Name of Purchaser	Residence of Purchaser.

14. An *ex-officio* vendor of Court Fees Stamps may be required to give security for the proper performance of his duties, if such appear necessary to the head of the office in which the vend of the stamps is to be conducted. The terms of the bond can be specially framed to meet the requirements of the case.

(Annexure to Rule 5.)

The following is the form for the License indicated in Rule 5 :—

No.

To \_\_\_\_\_ (Date)

License \_\_\_\_\_

You are hereby authorized to sell Court Fees Stamps of the following descriptions (that is to say):— (here insert description of stamps), at (here insert the number of the house and the name of the street, or court, or district or locality, and the name of the Collectorate, wherein the stamps are to be sold) according to the Rules made under Section 48 of the General Stamp Act of 1869, and Section 34 of Act VII. of 1870.

(Signature of the Officer granting the License.)

NOTE.— This License is revocable at any time by the Government of Bombay or by the Officer granting it.

*Additional Rules under Section 20.*

1. The fees chargeable by all Revenue Courts shall be—

- (1) for every Notice or Summons, 3 annas; and
- (2) for every Warrant of Arrest issued on application of parties, 6 annas.

2. Section 20 of the Court Fees Act, 1870, empowers the High Court to make rules for the fees of processes issued by Civil and Revenue Courts. Although the term "Revenue Court" appears to be falling into disuse, powers of a judicial nature, which under the Regulations of 1827 and subsequent years were exercised by officers considered to constitute such Courts, are still exercised by Revenue officers, and, as may be seen, the term is still retained in the Court Fees and perhaps a few other Acts of later years. There is no objection to the definition, of the term as "any Revenue authority holding, as such, a judicial proceeding."

The Courts of Mámlatdárs acting under Bombay Act III. of 1876 are Civil and not Revenue Courts, and an account of the work of these Courts should be embodied in the High Court's Report on the Administration of Justice, the Collectors furnishing the information in the form the High Court may prescribe.

The Revenue officers enumerated in the statement given below, when acting under the provisions of the law therein quoted, should submit a report of their work to Government and not to the High Court.

The scale of fees prescribed by the High Court under section 20 of the Court Fees Act can be applied to processes issued by the officers above mentioned, unless such processes are issued by the officers *proprio motu*, or at the instance of other officers acting on behalf of Government. (G. R. 5855, J. D., of 5th and 6444 of 30th September.)

NOTE.—The above scale was originally intended to be applicable to the Mámlatdárs' Courts constituted under Act III. of 1876, and should still be observed in those Courts. The scale of fees applicable to Courts constituted under the Bombay Civil Courts Act, 1869, is not to be observed in the Mámlatdárs' Courts. See Part XVII. of this compilation.

Designation of Revenue Authorities.	Act under which Revenue Officers hold Judicial Proceedings.
Commissioner, Assistant Commissioner or Deputy Commissioner of Customs.	Act XXIX. of 1857 (Land Customs).
Registrars. ... ..	Act III. of 1877 (Registration Act).
Collectors ... ..	Act VI. of 1878 (Treasure Trove).
Forest Settlement Officers.	Act VII. of 1878 (Forests).
Commissioners, Assistant Commissioner or Deputy Commissioner of Customs.	Act VIII. of 1878 (Sea Customs).
Collectors ... ..	Act I. of 1879 (Stamps).
Manager of the Sind Encumbered Estates.	Act XX. of 1881 (Sind Encumbered Estates).
The Tálukdári Settlement Officer.	Act XXI. of 1881 (Broach and Kaira Encumbered Estates).
Collectors ... ..	Act XIV. of 1882 (Civil Procedure Code).
The Tálukdári Settlement Officer.	Bombay Act VI. of 1862 (Ahmedabad Tálukdárs' Relief).
Collectors ... ..	Bombay Act II. of 1863 (Claims to exemption from payment of revenue).

Designation of Revenue Authorities.	Act under which Revenue Officers hold Judicial Proceedings.
Collectors ... ..	Bombay Act VII. of 1863 (Summary settlement of claims to exemption from payment of revenue).
Do. ... ..	Bombay Act III. of 1874 (Hereditary Offices).
The Collector of Bombay.	Bombay Act II. of 1876 (Land Revenue, Bombay City).
Collectors ... ..	Bombay Act III. of 1878 (License Tax).
Do. ... ..	Bombay Act V. of 1878 (Abkari).
Commissioners, Survey Commissioners, Collectors, Superintendent of Survey, Survey Settlement Officers.	Bombay Act V. of 1879 (Bombay Land Revenue Code).
Canal Officers, Collectors, and Commissioners.	Bombay Act VII. of 1879 (Irrigation).
Commissioners ... ..	Factories Act of 1881 ... ..

3. In formal and summary enquiries under the Land Revenue Code which it is desirable should not be dismissed through default of the parties in furnishing Court-fee or batta for witnesses, the Revenue authority holding the enquiry should accept the petition or complaint and summon the witnesses *proprio motu*. The procedure sanctioned in the Resolution published at page 180A, No. 50 of the present edition of the High Court's Circular Orders, should be adopted in such cases as far as practicable. (G. R. 6737 of 11th November 1881).

4. Postage charges on all processes, notices and such other documents as are issued from any judicial or revenue Court are to be defrayed by means of postage service stamps and not to be levied from the parties. (G. R. 2711, J. D., of 29th April 1882).

5. For scale of fees to be levied in the partition of estate by the Collector, see Part 1. Appendix N. of this compilation.

6. As to proceedings under section 320 of the Civil Procedure Code, see the additional order given in Part XV. of this compilation.



APPENDIX A. (See Rule 18.)

Account of.....Licensed Stamp Vendor at.....No.

DATE.	PARTICULARS.	GENERAL STAMPS.				TOTAL.
		Stamped Papers.		Hundis.		
		Number of Papers.	Amount.	Number of Papers.	Amount.	
	Balance ... ..					
	Received as per Indent of ... ..					
	Ditto ditto ... ..					
	Ditto ditto ... ..					
	Total ... ..					
	Sold during the month ... ..					
	Balance ... ..					

APPENDIX B. (See Rule 19.)

Know all men by these presents that we, *A. B.* resident of ....., and *C. D.* resident of ....., and *E. F.* resident of ....., are jointly and severally held and firmly bound unto the Secretary of State for India in Council in the sum of Rupees ..... of good and lawful money current in Bombay, to be paid to the said Secretary of State, or his certain Attorney, agents, successors, or assigns, for which payment well and truly to be made we jointly and severally bind ourselves, and each of us, and our respective heirs, executors, administrators, and representatives, by these presents. Sealed with our respective seals. Dated this..... day of ..... in the year of Christ One thousand Eight hundred and .....

Whereas according to the provisions of the rules in this behalf framed under Section 55 of the Indian Stamp Act of 1879 the above bounden *A. B.* has been duly appointed to vend at ..... in the ..... certain stamps on the part of Government, and whereas the above bounden *C. D.* and *E. F.* have agreed to join with the said *A. B.* in the above written bond or obligation, subject to the conditions hereunder written, as the surety or sureties of the said *A. B.* for his strict observance, for and during all the time that he the said *A. B.* has been or shall continue to be such vendor of stamps, of the duties of his said office, and of all and every the rules authorised by or referred to in the said Act to be observed by all vendors of stamps according to the true intent and meaning of the said Rules and every of them, and also for his the said *A. B.*'s strict observance, for and during all the time that he shall continue to be such vendor of stamps, of such future acts, with such penalty, and after such form as may be required by the Collector of .....

Now the condition of the above written bond or obligation is such, that if the above bounden *A. B.* has, for and during all the time that he the said *A. B.* has been such vendor of stamps as aforesaid, well, truly, faithfully, and diligently done, executed and performed, and do and shall, for and during all the time that he the said *A. B.* shall continue vendor of stamps, well, truly, faithfully, and diligently do, execute, and perform all and every the duties belonging to the said office of vendor of stamps, and has faithfully, justly, and exactly observed, performed, fulfilled, and kept, and shall faithfully, justly, and exactly observe, perform, fulfil, and keep all and every the rules mentioned or referred to in the said Act to be observed by all vendors of stamps according to the true intent and meaning of the said rules, and every of them and also if the said *A. B.* shall well and truly observe, perform, fulfil, and keep such future acts, with such penalty and after such form as may be required by such Collector of ..... according to the true intent and meaning of the said lastmentioned Act; and if the said *A. B.*, his heirs, executors, or administrators shall indemnify and keep and save harmless the said Secretary of State for India, his successors, and assigns of and from all loss and losses, damage and damages, which has or have happened or accrued to, or been sustained by him, the said Secretary of State for India, or which may or shall happen or accrue to, or be at any time or times sustained by him the said Secretary of State for India, his successors, or assigns, by, from, or through, or by the means of the neglect, default, insolvency, or misconduct of him the said *A. B.*, his executors or administrators or agents or his or their executors or administrators, not fully accounting for and paying to the said Secretary of State for India, his successors, or assigns, what may be justly due and owing to him by the said *A. B.* as vendor of stamps as aforesaid,

or through or by means of the neglect, misconduct, omission, or insolvency of the said A. B. as such vendor or stamps as aforesaid; and also shall well and truly pay or cause to be paid into the hands of the Collector of..... for the time being, or to such other officer or person as the Government of Bombay shall from time to time direct or appoint, any penalties, forfeitures, dues or other sum or sums of money which now have been, or shall, or may be at any time hereafter incurred, or any penalties which may become payable by the said A. B., as such vendor of stamps, under or by virtue or by reason of the said Rules, or by any of them or by any such future Rule or Act, Rules or Acts, as shall hereafter be in that behalf passed in due form of law, relating to the said duties of stamp vendors when and so often as all or any such penalties, forfeitures, dues and other sum or sums of money shall be so incurred or become payable by the said A. B., then this obligation to be void and of no effect, but otherwise to be and remain in full force and virtue.

Signed, Sealed, and Delivered at.....

In our presence

(Signed) A. B.  
C. D.  
E. F.

## PART XI.

### RULES UNDER THE INDIAN REGISTRATION ACT, 1877.

#### I.—REGISTER BOOKS.

1. The Register Books, Nos. I. to V., prescribed in section 51, shall be kept in the forms of Appendices A., B., C., D. and E., respectively.

Forms of Register Books, Nos. I. to V.

When the stock of books issued under Act XX. of 1866 or Act VIII. of 1871 in any office is likely to last for any length of time, the Inspector-General will issue directions for the renumbering or re-labeling of such books, so as to adapt them for use under the present Act.

2. For the purposes of sections 64, 65, 66 and 67, a separate Paste-Book forming a supplement to Book No. I. is to be kept, to be called "Supplement to Book No. I., Part I.," copies of maps or plans, such as those mentioned in section 21, should be filed in a Paste-Book, forming another supplement, to be called "Supplement to Book No. I., Part II.," and certificates received by a Registering Officer under section 89 should be filed in another supplement, to be called "Supplement to Book No. I., Part III."

Supplements to Book No. I.

3. It shall be the duty of every Registering Officer, on receiving a new register book, to count the pages, and satisfy himself that the number of pages corresponds with that given in the certificate on the title-page. If the number be found correct, he shall certify to that effect on the title-page. If there be a discrepancy, he shall return the book for correction to the officer from whom it was received.

Examination of new Register Books.

4. The volumes of each Register Book shall be numbered in a consecutive series, which shall not terminate with the year but be carried on perpetually. It shall not be necessary to commence a fresh volume at the commencement of a new year; but a fresh numerical series of entries must be commenced each year as required by section 53. When the amount of copying is great, two or more volumes of Book Nos. I., III., or IV. may be used simultaneously. When two volumes are thus in use at the same time, documents bearing an even number should be copied into one, and those bearing an odd number into the other.

Numbering of the consecutive volumes of Register Books.

#### II.—INDEXES.

5. Indexes Nos. I. to IV., prescribed in section 55, shall be kept in the forms of Appendices F., G., H. and I. respectively.

Forms of Indexes, Nos. I. to IV.

6. In Registrars' Offices these Indexes are to be prepared in English; in Sub-Registrars' Offices, in the vernacular language of the sub-district.

Language in which the Indexes are to be prepared.

7. In preparing the Indexes the transliteration table given in Appendix J. should be followed. English names should be indexed under

Manner of preparing Indexes

the first letter of the person's family name; native names under the first letter of the person's proper name, all prefixes denoting rank, occupation, or caste, being put into the column for profession, rank, &c. The names of Native Christians, who have Christian names, and family names, should be indexed in the same manner as English names. In the case of a Native Christian who has no family name, and who adds his father's name or the name of his village to his own, the name should be indexed in the same manner as an ordinary native name.

8. All documents executed by or on behalf of Government should be indexed under "Government" in English, and "Sarkár" in the vernaculars. A document executed under the authority of a power-of-attorney, should be indexed in the name of the

Manner of indexing documents executed by or on behalf of Government, or by an attorney or guardian, or by a company or corporation.

principal, a document executed by a guardian on behalf of a minor in the name of the minor, and a document executed by or on behalf of a company, or corporation, in the name of such company or corporation.

But in every case contemplated by the rule the name and occupation of the actual executant should be shown in column 3 of Index No. I. or IV., and in brackets in column 4 of Index No. II., immediately below the name in which the document is indexed.

9. The index entries of copies, memoranda, or certificates, filed under sections 64, 65, 66, 67 and 89 should be in red ink, but are to be made in the same Indexes and in the same manner as entries concerning documents copied in Book No. I.

Index entries of copies, memoranda, and certificates how to be made.

10. In entering the date of registration in any of the Indexes, the date of the certificate of registration required by section 60 shall be taken to be the date of registration; but in the case of copies or memoranda filed in the Supplement to Book No. I., Part I., or of certificates filed in the Supplement to Book No. I., Part III., the date of filing such copies, memoranda, or certificates shall be considered the date of registration.

What to be considered the "date of registration" for the purposes of the Indexes.

11. In Index No. I. column 1, when there are several executants of a deed, a separate entry shall be made under the name of each in its proper alphabetical place in this form, viz., "GopálNaráyan, and four others."

Entries in Indexes where there are several executants or the property is situate in several different villages.

The same rule shall apply *mutatis mutandis* to the names of villages in column I of Index No. II. when the property is situate in several villages within the same district or sub-district.

12. The Indexes Nos. I., II., III. and IV. will be supplied to Registering Officers in loose sheets bearing all the letters of the alphabet printed on their lower margins.

Method of using the loose sheets supplied for Indexes.

A Registering Officer, desiring to employ one of such sheets for the purpose of indexing under any particular letter, will remove all the letters below the required Index letter by cutting them out, and cancel all those appearing above such required letter by drawing an ink line through them. The pages of each Index should be arranged alphabetically before being bound up.

13. The copies of entries in Indexes Nos. I. and II., which Sub-Registrars are required by section 56 to send to the Registrars to whom they are respectively subordinate shall be so sent by them on the 1st of every third month. And the copies of entries in Index No. III. shall be so sent by them once a year in the month of January.

Copies of entries in Indexes Nos. I., II. and III. when to be sent by Sub-Registrars to the Registrars.

14. The copies of entries in Indexes Nos. I. and II. received by the Registrars under the last rule, should be filed according to sub-districts so as to prevent their getting mixed up, and at the end of the year should be bound into volumes. In binding, the volumes containing copies of entries in Index No. I. should be distinct from those containing copies of entries in Index No. II.; but each Sub-Registrar's copies of entries in each Index for one year may be bound into one or more volumes, or the copies of entries in each Index for the same period of several Sub-Registrars may be bound up into a single volume, as may be most convenient. The Registrars' and Sub-Registrars' own original Indexes Nos. I. and II. should be bound into volumes in a similar manner, but if it be deemed advisable, a Registrar's own original Indexes Nos. I. and II. may be bound up in the same volumes which contain the copies of Indexes Nos. I. and II. respectively for the same year, received under Rule 13 from the Sub-Registrars.

Arrangement and binding of copies of Indexes Nos. I. and II. and of original Indexes.

15. The copies of entries in Index No. III., received by each Registrar, should, together with the Registrar's own original Index No. III., be bound into one yearly volume for the entire district, the sheets being carefully arranged according to the offices to which they relate. In each Sub-Registry Office the original Index No. III. for each year should be bound into a separate volume.

Arrangement and binding of Index No. III. and of copies thereof.

16. Columns 7, 8, 9 and 11 of Index No. III. should not be filled in until it has been ascertained beyond dispute that the testator or donor, to whose will or author-

Manner of filling in Columns 7, 8, 9 and 11, of Index No. III.

ity to adopt the index entry relates, is dead. If the fact of such death is not ascertained till after the copy of the Index in which the entry was made has been sent by the Sub-Registrar to the Registrar, the Sub-Registrar shall immediately forward to the Registrar a statement of the particulars to be inserted in the said columns, and the Registrar shall thereupon cause the said particulars to be duly entered in the copy of the Sub-Registrar's Index filed in his office.

### III.—MISCELLANEOUS RECORDS AND ACCOUNT BOOKS.

17. At the end of every year an alphabetical index shall be prepared at the end of Book No. II. of all entries in such book according to the form given in Appendix K.

18. Every Registering Officer shall keep a list of the powers-of-attorney authenticated by him under section 33. It shall contain the following headings:—

List of powers-of-attorney authenticated.

(1) Consecutive number ; (2) date ; (3) name of the principal executing the power ; (4) his profession, trade, rank, or title ; (5) name of the attorney ; (6) names of the persons, if any, who identified the principal ; and (7) the nature of the power.

19. Every Registering Officer shall keep a Day-Book in the form of Appendix L., in which shall be entered all fees and fines paid at the time of presentation.

20. Every Registering Officer shall keep a Minute Book in the form of Appendix M., in which he shall briefly enter the name and residence of every person presenting a document for registration, or for any other purpose, or making any application or appeal, together with the nature of such document, application or appeal, and the orders which he may from time to time pass regarding the same, and also all proceedings held by him with regard to the attestation of powers-of-attorney.\*

When a document has been presented for or admitted to registration, or a power-of-attorney authenticated, either at a private residence or a jail, a minute to that effect shall appear in the Minute Book.

When a document purporting to have been executed by, or on behalf of, Government is presented for registration, that fact shall be specially noted, and it shall be shown in the proceedings recorded in the Minute Book that the Registering Officer has been satisfied of the due execution of the document by an officer who is exempt from personal appearance in the Registration Office under section 88 ; and when in any case the Registering Officer is acquainted either with the parties admitting execution, or with the witnesses to their identity, he shall make a record to that effect in his Minute Book.

In this Minute Book shall also be recorded the depositions of witnesses, &c., examined by a Registrar when holding an enquiry under section 74, and the order which the Registrar may pass at the close of such inquiry, and the substance of any statement which a Registering Officer may record under section 63.

21. A Cash-Book shall be kept in every Registration Office in the form of Appendix N., in which all fees received for registration, searches or copies, and all moneys recovered from Registering Officers in the shape of fines, percentage allowance on fees refunded to parties, &c., shall be brought to account, and the correctness of each day's total attested by the Registering Officer's signature.

22. The fees received for registration, searches, copies, &c., shall be remitted daily to the nearest Treasury, and the signature of the officer in charge of the Treasury shall be taken in the Cash-Book. In Bombay the fees shall be remitted in the same manner to the Bank of Bombay. If a Sub-Registrar's office be at a place where there is no Treasury, remittances shall be made to the Treasury whenever the amount in hand exceeds Rs. 50.

23. A Batta Book shall also be kept in the form of Appendix O. in each Registration Office, and all entries therein shall be signed by the Registering Officer on the day on which they are made.

#### IV.—SAFE CUSTODY OF BOOKS, &c.

24. The office of every Registrar and Sub-Registrar shall be provided with Register Books and other records of five years to be kept in a press. a strong wooden press or almira, with a good English lock, sufficiently large to contain the Register Books and other records of five years. In this press shall be kept, when not required during office hours, all the Register Books and other records and all papers and documents in the custody of the Registering Officer, except, in the case of a Registrar, such documents as he keeps in the fire-proof box supplied to him by Government.

25. Every Registrar's office shall be a central office of record for the district, and, save in the case of the district of Bombay, such of the Registration, Cash, Minute, Day and Batta Books of the subordinate offices of the district as, at the commencement of each calendar year, are complete, and date back five years, shall be transferred to it. In the district of Bombay the transfer of completed books from the Sub-Registry offices to the office of the Registrar of the district shall be made as the Inspector General shall from time to time direct. The Indexes of each Sub-Registry Office shall be retained in the office to which they belong.

## V.—DESTRUCTION OF USELESS RECORDS, &amp;c.

26. The following papers, &c., in the Registrar and Sub-Registrar's offices shall be destroyed after the lapse of two whole years from the date on which such papers, &c., or the proceedings to which they relate, were finally disposed of, subject, in the case of a Sub-Registrar's Office, to the sanction of the Registrar of the district. A list shall be kept of the papers so destroyed in the form given in Appendix P. :—

Destruction of use-  
less returns and other  
papers.

- (1.) Fixed and extra contingent bills.
- (2.) Bills for printing and stationery.
- (3.) Indents for dead-stock.
- (4.) Arrears returns and batta returns.
- (5.) Summonses.
- (6.) Ordinary correspondence, excepting circulars and standing orders and other papers that may be considered useful for reference.
- (7.) Applications for summonses and warrants under sections 36 and 39.
- (8.) Applications for searches and inspections under section 57.
- (9.) Applications for attendance at the private residence of parties.
- (10.) Applications for leave and reports of appointments and delivering over and receiving charge of any office.
- (11.) Receipts granted under section 52 or under Rule 35, and subsequently taken back under Rule 53 or 60, and counterparts of such receipts, and counterparts of notices as to documents being ready for delivery.

If the destruction of any papers, &c., other than the foregoing, is desired, the previous sanction of the Inspector General, or, in Sind, of the Branch Inspector General, must be obtained.

27. The documents of which the destruction is authorized by section 85, if they remain unclaimed for a period exceeding two years, shall not be destroyed without the previous sanction of the Inspector General, or, in Sind, of the Branch Inspector General, nor until a notice has been duly issued to the parties concerned. The two years shall be reckoned, in the case of documents the registration of which has been refused, from the date of such refusal, and, in the case of documents which have been registered, from the date of their registration.

Destruction of do-  
cuments under section  
85.

When a registered document is destroyed, a note recording its destruction shall be entered in the Register Book at the foot of the copy of the document; and when a document, the registration of which has been refused, is destroyed, a similar note shall be recorded in Book No. II. in the column headed "Reasons for refusal to register," at the foot of the entry in that column relating to the document.



In every case the note shall be in red ink, and shall record the fact that the document has been destroyed, subject to the sanction of the Inspector General, or, in Sind, of the Branch Inspector General, and after notice duly issued to the parties concerned.

A list of destroyed documents shall be kept in every Registration Office in the form of Appendix Q.

#### VI.—LANGUAGES TO BE RECOGNIZED.

28. The following languages shall be deemed to be commonly used in the districts named :—

Languages in common use.      districts named :—  
In the districts of Ahmedabad, Broach, Kaira, the Panch Maháls and Surat,—English and Gujaráti.

In the district of Bombay,—English, Gujaráti and Maráthi.

In the districts of Kolába, Ratnágiri, Thána, Ahmednagar, Khándesh, Násik, Poona and Sátára,—English and Maráthi.

In the districts of Belgaum, Kánara, Dhárwár, Kaládgi and Sholápur,—English, Maráthi and Kánarese.

In the district of Aden,—English.

In the districts of Hyderabad, Karáchi, Shikárpur, Thar and Párkar, and the Upper Sind Frontier,—English, Sindhi and Persian.

#### VII.—TERRITORIAL DIVISIONS.

29. The following territorial divisions shall be recognized under section 21 (namely), in the mofussil,—the registration district, the sub-district, the táluka, and the village or township wherein the immoveable property affected by the document is situated ; within the ordinary original civil jurisdiction of the High Court of Judicature of Bombay, the registration sub-district in which the immoveable property affected by the document is situated.

Territorial divisions to be recognized under section 21.

#### VIII.—REGULATION OF FINES.

30. Fines imposed under section 24 or 34 of the Act shall be of the following amounts, namely :—

Amount of fines to be charged under section 24 or 34.      If the delay has been less than one month,— $2\frac{1}{2}$  times the proper registration-fee.

If more than one month, but less than two months,—5 times the proper registration-fee.

If more than two, but less than three months,— $7\frac{1}{2}$  times the proper registration-fee.

If more than three months,—ten times the proper registration-fee.

#### IX.—MEMORANDA.

31. The memoranda of documents required by sections 64, 65, 66 and 67, shall be in the form of Appendix R.

Forms of memoranda under sections 64 to 67.

## X.—HOLIDAYS.

32. The holidays to be observed in Registration Offices are the general holidays allowed by Government in all public offices in the Revenue Department.

Holidays to be observed in Registration Offices.

## XI.—PROCEEDINGS OF REGISTRARS AND SUB-REGISTRARS.

*Office-Hours.*

33. All Registration Offices shall be open daily, Sundays and holidays excepted, between the hours of 11 A.M. and 5 P.M.

Registration Offices to be open daily from 11 A.M. to 5 P.M.

*Reports of Appointments.*

34. Registrars should report all appointments made by them under section 11 or 12, and all changes in the officers in charge of Registrars' and Sub-Registrars' Offices respectively, in the following forms :—

Report of appointments under section 11 or 12.

"Statement of appointments made under Section 11 or 12 of Act III. of 1877, between the 1st and 7th of July 18 .

No.	The names and designations of persons appointed.	To what duties and whether officiating or substantive.	At what place, and the circumstances under which the vacancy necessitating the appointment has occurred.

No. of 18 .

Forwarded to the Inspector General of Registration for information.

Registry Office, }  
18 . } Registrar."

"The following Officers have respectively delivered over and received charge of the Registry and Sub-Registry Offices hereinafter named, on the dates specified against their respective names :—

District.	Office.	Names of Officers delivering over charge.	Names of Officers receiving charge.	Date of the same.	Time.

No. of 18 .

Forwarded to the Inspector General of Registration for information.

Registry Office, }  
18 . } Registrar."

*Receipts.*

35. A Registering Officer visiting a private residence or jail under sections 31, 33, or 38, and receiving his travelling expenses from the person at whose application such visit is made, shall give to the applicant a receipt for the sum received, and, if a Sub-Registrar, shall immediately report the amount to the Registrar. Such receipts shall be in the form of Appendix S., and a receipt in the same form shall also be given whenever payment of any fee or fine is made to a Registering Officer unaccompanied by the presentation of any document for registration or deposit.

The receipt to be given under section 52 for a document presented for registration shall be in the form of Appendix T., and a receipt in the same form shall also be given for any document presented for deposit.

*Authentication of Powers-of-Attorney.*

36. In authenticating powers-of-attorney under section 33, Registering Officers should adopt the following forms (namely):—

Form of authentication of powers-of-attorney.

“Executed by A. B. of C. D., in my presence on the 30th July 18 , his identity being proved by E. F. of G. H;” or

“Voluntarily executed by A. B. of C. D., whereof I have satisfied myself by personal examination of the said A. B. (or by the examination of the said A. B. by commission).”

These endorsements shall be signed and sealed by the Registering Officer authenticating the same.

*Registration.*

37. The endorsement to be made, as prescribed in section 52, on every document presented for registration shall be written by the Registering Officer with his own hand, on the face of the document in the following form:—

Presentation endorsement to be written by Registering Officer in his own hand.

“Presented at the Office of the Registrar, or Sub-Registrar, of between the hours of 2 and 3 P.M. on the 30th July 18 .”

If a document is impounded under the Stamp Act the words “impounded under Section of the Stamp Act” shall be written on the face of it, and signed by the Registering Officer below the above endorsement.

38. The proper fees shall then be taken, and the first four columns in the Day-Book (Appendix L.) must be filled in at once.

The daily number under which the document is entered in the Day-Book (Appendix L.) and the Minute Book (Appendix M.) should be endorsed on the document.

39. In calculating copying fees a fraction of a folio shall be counted as a whole folio. When a document is so short that the copy of it will probably occupy less than one page of the Register Book the whole number of words should be counted. In other cases the number of folios may be counted by multiplying the average number of words in five different lines in different parts of the document by the number of lines in the document (a fraction of a word being counted as a word), and dividing the result by a hundred.

Method of counting folios for fixing copying fees.

Notes of receipt of fees to be endorsed on the document.

40. On receipt of the fees the Registering Officer shall write on the face of the document a note in the following form:—

“ Received fees as follows:—

Registration fee ... ..	Rs.
Copying fee (folios) ... ..	”
(When paid) extra fee for registration by Registrar ... ..	”
(When paid) extra registration fee for registration at private residence ... ..	”
(When paid) attendance fee for do. ... ..	”
(When paid) fee for copies or memo. under Sections 64, 65, 66 and 67 ... ..	”
(When paid) fine under Section 24 ... ..	”
(When paid) fine under Section 34 ... ..	”

Total Rs. \_\_\_\_\_

A. B.,

Registrar or Sub-Registrar.”

41. In considering whether a document presented for registration should be accepted for registration, the Registering Officer should not concern himself with questions as to its validity, but should be careful only to see that it fulfils the following requirements of the law relating to documents presented for registration (namely):—

Points to be considered before accepting a document for registration.

- (1) that the document be properly stamped;
- (2) that it be presented within the proper time;
- (3) that it be presented by a competent person;
- (4) if it relates to immoveable property, that it is not open to objection under section 21; and
- (5) that the provisions of section 19 are complied with with respect to it, if that section be applicable to it.

42. If there be no objection, on the face of the document, to its being accepted for registration, the inquiry prescribed in section 34 shall be proceeded with; and if the document is admitted to registration, the endorsements and certificate prescribed by sections 58 to 60 shall be made from time to time in the manner shown in Appendix U.

Form of endorsements and certificate under sections 58 to 60 if document is admitted to registration.

Admission of receipt of consideration shall only be endorsed when such admission is voluntarily made.

If an executing party admits execution, but takes occasion to deny the receipt of consideration in whole or in part, registration is not on that account to be refused, but the denial of receipt of consideration shall be mentioned in the endorsement.

When the Registering Officer is acquainted either with the persons admitting execution or with the witnesses to their identity, he shall mention the fact in the endorsement.

43. On every document admitted to registration a blank space is required for the endorsements and certificate prescribed by sections 58 to 60. A space, 6 inches in length and 5 inches in breadth, will ordinarily be sufficient, but when the executing parties are numerous, the space should be proportionately larger. If, in any case, the blank space on the document is insufficient, an extra piece of blank parchment or paper should be firmly gummed on to it, and the Registering Officer, when making the endorsements or certificate, should take particular care that they are not written wholly on the piece attached, but partly on the document itself and partly on the attached piece across the junction of the two.

44. When a document admitted to registration is being copied, as required by section 52, in the appropriate Register Book, the value of the stamp and the stamp-vendor's endorsement shall invariably be transcribed at the beginning of the copy in such book and also on the memoranda or copies prepared under sections 64 to 67; but these shall not be taken into account when calculating the copying fees.

45. In Book No. I. compulsory registrations shall be distinguished by the letter "A." appended to the serial number, and optional registrations by the letter "B.," and copies, memoranda, or certificates under sections 64, 65, 66, 67 and 89, filed in supplements to Book No. I., Parts I. and III., shall be distinguished by the serial numbers 1a, 2a, 3a, &c.

For the purpose of determining whether the registration of a document in which the value of the interest affected is not specified is compulsory or not, the value of the stamp affixed thereto shall be taken to indicate the value of the interest according to the provisions of the law in force relating to stamped documents.

46. The transcript of a translation under section 62 shall be made in red ink.

47. The following items are to be copied in the column of Books Nos. I., III. or IV. (as the case may be), headed "Endorsements and Certificate" (namely):—

What endorsements and certificates are to be copied into Register Books Nos. I., III. and IV.

1st, the daily number endorsed on the document under Rule 38 ;

2nd, the presentation-endorsement referred to in Rule 37 ;

3rd, the fee-endorsement required by Rule 40 ;

4th, the endorsements and certificate required by sections 58. to 60 in the order in which they occur on the document.

48. In cases of re-registration, the document shall be copied into the Register

Procedure in cases of re-registration. *in extenso* and a number shall be assigned to it, precisely as if it had not been previously registered, but a note in red ink to the effect " re-registered at page , volume of Book No. , " shall

be made in the Register to the first copy of the document in the column headed " Endorsements and Certificate " below the Registering Officer's signature, and such note shall be signed by the officer who re-registers the document. The presentation-endorsement (Rule 37) shall be repeated on re-presentation.

49. Errors, erasures, interlineations, &c., in original documents must be

Method of noting errors, erasures, &c., in original documents in the copies thereof in Register Books. copied into the Register Book exactly as they appear in the documents. Marginal notes shall be written in column 1,

explanatory of such errors, &c., in the following manner : in the case of interlineations, additions, or mis-spellings, by a single mark " X," in red ink over them, with a similar mark " X," in red ink, in column 1, and the word " sic," or the corresponding word in the vernacular in the same column ; in the case of an erasure, by two marks " XX," in red ink, one at each end of such erasure, with similar marks in column 1, and the word " erasure," or corresponding word in the vernacular. All such notes must be attested by the initials of the Registering Officer.

50. On the copy in the Register Book being completed, the Registering Officer

Attestation of copy of document in Register Book. having carefully compared it with the original, shall certify under his signature that it is a true copy.

No erasure or alteration shall be made in the

Method of attesting corrections in copy of a document in the Register Books. Registers, any error made at the time of copying shall be bracketed in red ink, and the correction written above in red

ink, and such correction shall be attested on each side by the initials of the Registering Officer. Every interlineation or addition shall be similarly noted and attested.

When any such corrections are made, the form of certificate shall be as follows :—

" (True copy.)

The words , line , page , having been superfluously written at the time of copying, have been placed in brackets " ; or " the words , line , page , having been written by

mistake at the time of copying, have been placed in brackets, and the words have been written above in red ink;” or “the words having been omitted by mistake from line , page , at the time of copying, have been written above in red ink.

(Signed) A. B.,

Registrar or Sub-Registrar.”

51. If the copy of a document occupies more than one page of the Register Book, the marginal entries shall be made once only, with the exception of the serial number, which shall be repeated on every page. The marginal entries shall, in no case be made alongside of the copy of any document other than that to which they relate. Where, owing to the document being short, the marginal entries in the Register Book extend lower down in the columns appropriated to them than the copy of the document in the column appropriated to it, the blank space left in the last-named column shall be cancelled by cross lines in ink being drawn over it.

52. On every map or plan put in under section 21, the Registering Officer shall endorse “map or plan which accompanied the document, registered No. , at page , volume of Book No. I.,” and every Registering Officer entering such map or plan, or copy of map or plan, in his supplement to Book No. I., Part II., shall make a note in his Book No. I., below the copy of the document to which the map or plan or copy belongs, as follows:—

“Map or plan, or copy of map or plan accompanying, is entered at page of volume of Supplement to Book No. I., Part II.”

53. When after the registration is complete within the meaning of section 61 the document is returned, the signature of the recipient shall be taken in the Day-Book (Appendix L.), and the receipt given under section 52 shall be taken back and filed.

54. Documents of which the registration is not complete, and registered documents pending delivery, shall be kept separate.

A list of documents, the registration of which is not completed, and of those which have been registered, and have remained unclaimed for more than one month from the date of completion of registration, shall be hung up to public view in the office of every Registering Officer.

If a document remains unclaimed for one calendar month after its registration, or after registration of the same has been refused, the Registering Officer shall, on the day

Notices regarding fees under Article 37 of the Fee Table to be issued in certain cases.

following the last day of such month, issue a notice to the presenter of the document, informing him that if it be not claimed within a further period of one calendar month from the date of such notice, an extra fee at the rates prescribed in Article 37 of the Fee Table will be leviable before such document can be delivered to him. Such notices shall be sent by post, bearing.

55. When a Sub-Registrar registers a document relating to immoveable property not situate within his own sub-district, but in that of another Sub-Registrar, and the mistake is brought to notice, he shall direct the presenter to present it again in the proper office, where it shall be registered afresh without additional charge.

56. A copy of every order passed by a Registrar in appeal shall, if registration be thereby ordered, be sent to the Sub-Registrar, from whose decision the appeal was made, and shall be copied by the latter in the last column of his Book No. II.

*Commissions and the taking of Evidence, &c.*

57. Commissions issued under section 33 or 38 and the returns thereto shall be recorded in a separate file. Such commissions should be in the following form:—

“ To

A. B.

Whereas the accompanying power-of-attorney (or document), dated \_\_\_\_\_ and purporting to have been executed by C.D., has been presented for authentication (or registration) in this office, and whereas it is necessary that it should be ascertained whether it has been voluntarily executed by the person by whom it purports to have been executed, you are hereby directed to take the examination of \_\_\_\_\_ upon the interrogatories hereunto attached, and to return this commission with the examination of the said \_\_\_\_\_ to this office on or before the day of \_\_\_\_\_

Given under my hand and seal this \_\_\_\_\_ day \_\_\_\_\_ of 18 ..

(Signature of Registrar  
or Sub-Registrar).”



58. In taking evidence regarding the identity of parties appearing before him, the Registering Officer should prefer witnesses of respecta-

Class of witnesses to be preferred.



bility or well known persons, such as Government officers, vakils ordinarily practising at the station, or persons with whom he is personally acquainted.

59. Fees are to be levied for summonses and warrants issued under either section 36 or 75 at the rates prescribed in the fee table prepared by Government, and to be credited in the Batta Book (Appendix O.).

For the purposes of para. 4 of section 75, Registrars will themselves issue process for the attendance of witnesses. In the district of Bombay the Registrar will himself arrange for the service or execution of such processes; elsewhere they should be sent to a Mámlatdár, Mukhtýárkar, or Maháلكari for the purpose of being served or executed.

#### *Deposit of Sealed Covers.*

60. When application is made for withdrawal of a sealed cover under section 44, the Registrar shall take back the receipt given under Rule 35 for a sealed cover to be taken back when the cover is withdrawn. Rule 35. when the cover was deposited, and file it.

#### *Grant of Copies, &c.*

61. Every application to a Registering Officer for copies, searches, inspections, &c., shall be made in writing; every such application shall be numbered and filed by the Registering Officer, and upon it shall be endorsed the date of receipt, the date on which the requisition was satisfied, and the amount of fee received.

Registering Officers must be careful to see that the provisions of the stamp law for the time being in force are complied with, in respect of applications made under this Rule, and also as regards copies of documents which they may furnish to applicants.

62. When the Sub-Registrar at the Huzur Station is appointed by the Registrar, under section 11, to perform his duties during his absence from his office on duty in his district, or when, although not so appointed, such Sub-Registrar is during the Registrar's absence placed in charge of the District Record-room, the fees received for copies from the records of which he is so placed in charge shall be credited in the Sub-Registrar's accounts, and he shall be allowed his usual percentage commission on such fees.

#### *Postal Charges.*

63. No postal charges shall be levied for the transmission of memoranda or copies of documents under sections 64, 65, 66 and 67. The fees charged cover all ex-

Postal charges not to be levied for transmission of memoranda, &c.

penses, and the postage shall be paid by the officer levying such fees.

*Copies of Documents prepared under Section 67.*

64. When, under clause (b) of section 30, the Registrar of Bombay registers a document relating to property situated beyond the limits of the Bombay Presidency, the copy of such document, which under section 67 it is his duty to forward to every Registrar within whose district any part of the property to which such document relates is situated, shall, when the document is in a language other than English, be accompanied by an English translation, written in red ink, and certified under the signature of the said Registrar of Bombay to be a true translation.

*Copies of Reasons for Refusal of Registration.*

65. The copy of reasons furnished under sections 71 and 76 shall be a copy of the entries in the first four columns of Book No. II. relating to the document of which registration has been refused.

*Refund of Fees.*

66. Fees on documents of which the registration is finally refused shall be refunded to the parties entitled to the same. A register of such refunds, and of refunds of fees surcharged, and of fines which have been remitted, shall be kept by each Registering Officer in the form of Appendix V.

*Returns and Accounts.*

67. Every Registrar shall submit to the Inspector General, on or before the 15th of every month, monthly returns in the forms of Appendices W. and X. These shall be prepared from similar returns which shall be submitted to the Registrar by the Sub-Registrars on the 2nd of every month.

68. Sub-Registrars in the mofussil, other than those at sadar stations, should close their accounts on the date of each month on which the accounts of the Treasuries, into which their receipts may be paid, are closed; those at sadar stations and in Bombay should close them on the last day of the month.

69. Every Sub-Registrar shall prepare a bill, in the form of Appendix Y., immediately after paying in his fee-collections for the last day of each month, i.e., the day on which his accounts are closed, and after obtaining the signature of the Treasury Officer thereto shall forward it with

his Returns W. and X. on the 2nd of the month following to the Registrar to whom he is subordinate. The 4th column will be filled in by the officer in charge of the Treasury.

70. A general bill for all the Sub-Registrars in the district shall be prepared in the same form by the Registrar, and presented for payment at the Collector's Treasury, and the Registrar shall forward a copy of the bill, with his monthly Returns W. and X., to the Inspector General.

A general bill to be prepared by each Registrar.

71. The Return W. shall comprise the period from the day after that on which the accounts are closed in one month to that on which they are closed in the month following, both days inclusive. Any fee recovered for any period not included in that to which the return relates, shall be shown in a foot-note with a short explanation.

Return W. how to be prepared.

The fees for copies or memoranda under sections 64, 65, 66 and 67, shall be entered in red ink separately from the fees for registration, but immediately below them.

Sale proceeds of useless dead-stock articles belonging to the Department, credited to Government, shall be shown in a foot-note in the manner indicated in the form.

72. Fees received after the hour at which the Treasury, into which payments have to be made, may be closed, shall be kept by the Registering Officers till next day, and then paid into the Treasuries along with the receipts for that day.

Treatment of fees received after closing of Treasury.

In Bombay and the sadar stations, where the Treasury accounts are closed on the last day of the month, any fees received on that day by Registering Officers, subsequent to the closing of the Treasury, shall be shown in their accounts for the following month.

73. Every Registrar shall fill up such forms of Annual Returns as may be called for by the Inspector General, and shall, on or before the 30th June, submit to the Inspector General a brief Annual Report containing such general remarks as he may deem necessary on the amount of registration work performed by himself and his Sub-Registrars during the year, which terminated on the 31st of the previous March, distinguishing compulsory from voluntary registrations, showing the nature of the documents registered, the number and result of appeals under section 72, of applications under section 73, and of suits under section 77, the amount of fees collected in his own office and those of the Sub-Registrars, drawing attention to the inconvenience, if any, attending any of these Rules or the authorized table of fees, and submitting any suggestions which he may have to offer for facilitating, extending or improving the system of registration.

Annual Returns and Report to be furnished to the Inspector General by Registrars.

## XII.—REMUNERATION, &amp;c., of SUB-REGISTRARS.

74. All Sub-Registrars, except the Sub-Registrars of the Presidency District, Karáchi and Aden, shall provide, out of the percentage of fees paid to them as remuneration, whatever writing materials they require for the work of their respective offices, excepting such blank forms and books as are supplied by Government.

75. The kárkuns employed in Mofussil Sub-Registry Offices shall also be paid by the Sub-Registrars out of the said percentage of fees. Subject to the approval of the Inspector General, the number of kárkuns to be employed in a Sub-Registry Office, and the amount of monthly remuneration to be paid by the Sub-Registrar to each of them, shall be determined by the Registrar of the district. In no case shall the salary of any kárkun be less than Rs. 8 per month if he be employed by a special Sub-Registrar, nor less than Rs. 6 per month if he be employed by an *ex-officio* Sub-Registrar, whether the percentage receipts of the Sub-Registrar be above or below the abovenamed sums. On the 1st of January and on the 1st of July in each year, every Sub-Registrar shall furnish to the Registrar to whom he is subordinate a return showing the amount of salary paid by him to his establishment during the preceding six months. No Sub-Registrar shall employ, fine, or dismiss any kárkun save with the sanction of the Registrar of his district.

76. *Ex-officio* Sub-Registrars—

(1) shall not write up during the regular office hours of the kacheri in which they are employed any of the Register books or indexes, nor any of the returns, nor any book except the Minute-Book, the Day-Book, the Cash-Book, and the Batta-Book ;

(2) shall not employ any of the parties to a document, nor any agent, relative or friend of any such party or other person interested in the document, to write any of the Registration books, indexes, returns, or endorsements relating to such document, nor get any such writing done without remuneration by any person attending the kacheri on any public business ;

(3) shall not employ any Government servant to write any of the Registration books, indexes, returns, or endorsements, during the ordinary hours of duty of such servants ; and,

(4) shall be responsible for all writing for registration purposes being done legibly and distinctly and for the books, indexes, and returns being kept in a neat and

Sub-Registrars to provide their own writing materials.

Mofussil Sub-Registrars to pay their own kárkuns, subject to the orders of the Registrar.

*Ex-officio* Sub-Registrars may not write up their records during office hours ;

nor employ the parties, &c., to a document to do any such writing, nor get such writing done without remuneration by any one attending kacheri ;

nor employ any public servant to do any such writing during office hours ;

and shall be responsible for quality of writing and condition of records.

orderly manner under penalty of refunding the percentage of fees paid for any writing not to the satisfaction of the Registrar.

77. Registrars may, at their discretion, withhold percentage allowance from any Sub-Registrar who may be found to be negligent in the performance of his duties.

Registrar may withhold Sub-Registrars' percentage allowances.

### XIII.—INSPECTION.

78. Every Registrar shall, if possible, examine the books, indexes, accounts, and other records of the Sub-Registrars subordinate to him once in every official year. He shall make a memorandum of all errors, acts of negligence, or doubtful practices which he may observe, and shall send one copy of the same to the Sub-Registrar and another to the Inspector General, with any remarks or suggestions that he may have to offer. He shall particularly direct his attention towards ascertaining whether the same person or persons have been in the habit of attending at the Sub-Registry Office an extraordinary number of times to give evidence as to the identity of executants. He shall also, under section 52, authenticate the books that he may examine by making a record in each book to the following effect :—

Inspection by Registrars of Sub-Registrars' Offices.

“ Entries from p. . . . . to p. . . . . in this book,

Examined by me,

(Signed)

Registrar.

The of 18 .”

If a Registrar finds that he is unable, owing to press of other duties, to visit all the Sub-Registry Offices of his district in one year, he shall arrange, through the Collector of the district, for such offices as he cannot visit being examined by an Assistant or Deputy Collector, and every Sub-Registry Office shall at all times be open to inspection by the Assistant or Deputy Collector in charge of the taluka in which it is situate. Every Sub-Registrar's Office not situated within the limits of the charge of some Inspector of Registration Offices will, according to the orders of Government, be inspected once in every official year by the Assistant or Deputy Collector in charge of the taluka in which such office is situate.

Assistant and Deputy Collectors may be deputed to inspect Sub-Registrars' Offices.

An Assistant or Deputy Collector, so examining a Sub-Registry Office, should be required to make a report to the Registrar of all errors, acts of negligence, omissions, or doubtful practices he may observe, and the Registrar will thereupon issue such orders as

Procedure to be observed by Assistant or Deputy Collectors in such cases.

he deems necessary to the Sub-Registrar; the Assistant or Deputy Collector should in no case issue an order direct to a Sub-Registrar. He shall authenticate such books as he may inspect in the same manner as is above prescribed for Registrars. A copy of the report submitted by him shall be forwarded by the Registrar to the Inspector General, with any remarks or suggestions which the Registrar may have to offer thereon.

79. Every Inspector of Registration Offices shall carefully inspect the books, accounts, &c., of each Sub-Registry Office in the districts forming his charge, if possible once in every official year, and shall, on each such occasion, make a memorandum of all errors, acts of negligence, omissions, or doubtful practices which he may observe. He shall forward one copy of such memorandum to the Inspector General of Registration for information and another copy of the same to the Registrar of the district. The latter will thereupon issue such orders to the Sub-Registrar as he may deem requisite, but no Inspector shall issue any order direct to any Sub-Registrar. Such books of the Sub-Registry Office as may be examined by an Inspector shall be authenticated by him under section 52 of the Registration Act in the manner above prescribed for Registrars.

80. On or before the 10th of every month each Inspector shall submit to the Inspector General a diary containing full information as to his movements during the preceding month. He shall also submit an Annual Report, in which are to be noted all deeds of a peculiar or extraordinary character which have come under his observation during his examination of the Register Books. Special mention is also to be made of the state of the Indexes in the several offices, whether they afford all necessary facilities for reference, and whether any steps are recommended for their improvement.

#### XIV.—BRANCH INSPECTOR GENERAL OF SIND.

81. In Sind all reports and returns which, by any of the foregoing rules, are ordered to be made to the Inspector General shall be made to the Branch Inspector General.

#### XV.—EXAMINATIONS.

82. The appointment of every special Sub-Registrar will, in the first instance, be probationary only. Within four months after taking up his appointment, every such officer shall be examined by the Registrar as to his knowledge of the Registration Act and Rules and of the General Stamp Act and of the practice of registration. He shall answer, in writing, questions to be sent to the Registrar by the Inspector General; and his answers shall be sent to the Inspectors General,

who, after perusal of them and of the Registrar's report, will inform Government whether, in his opinion, he should be confirmed.

83. A departmental examination in question relating to the Registration Act and Rules and the General Stamp Act shall be held yearly in September in each district.

Annual Departmental  
Registration Examination.

All clerks and kárkúns of the Registration Department in the direct employ of Government shall be required to pass such examination before being confirmed in their appointments. The kárkúns of any Sub-Registrar other than the Sub-Registrars of the Presidency District and the Sub-Registrar of Karáchi, not being in the direct employ of Government, are exempt from the necessity of passing this examination, but any such kárkúns who, under the terms of Government Resolutions, Revenue Department, No. 2257 of the 12th May 1871, and No. 2724 of 13th May 1873, are eligible for the Government service, may, if they so desire, appear at the examination. The questions for the examination will be prepared by the Inspector General and forwarded by him to the President of the Examination Committee in each district. The names of the candidates who pass the examination will be published in the *Government Gazette*.

#### *Additional Rulings.*

1. The word "declare" in section 17 of the Registration Act III. of 1877 is to be taken in the same sense as the words "create, assign, &c.," used in the same section, viz., as implying a definite change of legal relation to the property by an expression of will embodied in the document referred to. It implies a declaration of will, not a mere statement of fact. Thus, a deed of partition is a declaration in the intended sense, but a letter containing an admission, direct or inferential, that a partition once took place, is not such a declaration. (I. L. R. 5 Bom. 233.)

2. Act III. of 1877 section 50, is not retrospective, and a deed which had not priority over an unregistered deed relating to the same property under the former Act VIII. of 1871 acquires no new right of priority by the passing of the present Act. (I. L. R. 5 Bom. 442.)

3. According to the registration law, as it stood before Act III. of 1877 came into force, there was no competition grounded upon registration between documents optionally and documents compulsorily registrable.

4. The legislature, while possessing the power to divest existing rights, is not (in construing statutes) to be understood as intending to exercise that power retrospectively to any greater extent than the express terms of, or necessary implication from, its language requires. (I. L. R. 5 Bom. 653.)

5. The words "any person intending to register any document" in section 31 of the Registration Act VIII of 1871 include, not only the person or persons in whose favor a document is executed, but also any person or persons executing the same.

Under the provisions of that section, therefore, the presentation of a document for registration, on special cause shown, at the residence of a party executing it, is valid.

The registering officer is the judge of the sufficiency of the special cause; and if he is satisfied, the Civil Court has no power to question his decision on that point.

Assuming the presentation at the residence of one of the executants of a document for registration to be an irregularity, it is one which, if committed in good faith, is covered by the provision of section 85 of Act VIII of 1871. (I. L. R. 6 Bom. 96.)

## APPENDIX A. (See Rule 1.)

## FORM OF BOOK No. I.

*Register of Non-testamentary Documents relating to Immoveable Property.*

Serial number of document.	Endorsement and certificate (Sections 52, 58, 59 and 60).	Copy of document.

## APPENDIX B. (See Rule 1.)

## FORM OF BOOK No. II.

*Record of Reasons for Refusal to Register.*

Serial number of refusal and nature of document.	Name of presenting party.	Name of Office in which registration has been refused, and date of refusal.	Reasons for refusal to register.	Copy of order of appellate authority or Civil Court directing registration (Sections 72 or 75 and 77).

**NOTES.**—(1.) Book No. II. is to be kept in this form both by Registrars and Sub-Registrars.  
 (2.) In Sub-Registrars' Offices only the date of refusal need be entered in Column 3.  
 (3.) In Registrars' Offices, when an appeal is brought under Section 72, or when an application is made under Section 73, the name of the office in which registration of the document has been refused and the date of such refusal should be entered in Column 3, and in Column 4 the Sub-Registrar's reasons for refusal should be copied *verbatim*. If the order of the appellate authority directs the registration of the document, it is to be copied in full in Column 5, both in the Registrar's Book No. II. and in that of the Sub-Registrar concerned.

## APPENDIX C. (See Rule 1.)

## FORM OF BOOK No. III.

*Register of Wills and Authorities to Adopt.*

Number.	Reference to Book No. V.	Endorsement and certificate (Sections 52, 58 to 60 and 45).	Copy of will or authority to adopt.

**NOTES.**—(1.) Only the Registrars issued to Registers should contain the second column.  
 (2.) In Registrars' offices, when a Will is in the first instance deposited as a sealed cover the 2nd column will be filled in and the 3rd column left blank. In any other case Column 3 will be filled in, and Column 2 left blank.



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APPENDIX D. (See Rule 1.)

FORM OF BOOK No. IV.

*Miscellaneous Register.*

Serial number of document.	Endorsement and certificate (Sections 52, 58 to 60).	Copy of document.

APPENDIX E. (See Rule 1.)

FORM OF BOOK No. V.

*Register of Deposits of Wills.*

Number.	Year, month, day, and hour of presentation.	Name and addition of depositor.	Nature of document.	Names and additions of persons examined as to identity.	Superscription.	Inscription or seal.	Date of application for registration (Section 45).	Name and addition of person making applications.	Reference to Book No. III.	Date of return to depositor (Section 44).	Receipts of depositor on withdrawal.

**APPENDIX F. (See Rule 5.)**

**FORM OF INDEX No. I.**

Names of executing parties or, in case of decrees or orders of Civil Court, of defendants.	Place of residence.	Profession, trade, rank or title.	Names of persons claiming under document or, in case of decrees or orders of Civil Court, of plaintiffs.	Place of residence.	Profession, trade, rank or title.	Date of registration.	No. of Book.	Volume.	Page.	Serial number of document.

**APPENDIX G. (See Rule 5.)**

**FORM OF INDEX No. II.**

Name of village or town.	Tálnka.	Description of property.	Names of executing parties or, in case of decrees or orders of Civil Court, of defendants.	Names of persons claiming under document or, in case of decrees or orders of Civil Court, of plaintiffs.	Nature of document and value of consideration.	Date of registration.	No. of Bo.	Volume.	Page.	Serial number of document.

**APPENDIX H. (See Rule 5.)**

**FORM OF INDEX No. III.**

Name of testator or donor.	Place of residence.	Profession, trade, rank, or title.	Name of executor, guardian, &c.	Place of residence.	Profession, trade, rank, or title.	Name of person claiming under will or authority to adopt.	Place of residence.	Profession, trade, rank, or title.	Description of property to which document relates.	Date of death of testator or donor.	Date of registration of will or authority to adopt.	Volume of Book No. III.	Page.	Serial number of document.

**APPENDIX I. (See Rule 5.)**

**FORM OF INDEX No. IV.**

Name of executing party or defendant (in case of decree or order of Civil Court).	Place of residence.	Profession, trade, rank, or title.	Names and additions of persons claiming under document or, in case of decrees and orders of Civil Court, of plaintiffs.	Nature of document and value of consideration.	Date of registration.	No. of Book.	Volume.	Page.	Serial number of document.

APPENDIX J. (See Rule 7.)

TRANSLITERATION TABLE.

English.	Gujarāti.	Marāthi.	Kānarese.	Hindustāni.
a ā i ī ū ū e ai o ou am ah k kh g gh ng ch chh j jh ny t th d dh n t th d dh n p ph b bh m y r l w sh sh s h ksh dn	અ આ ઇ ઈ ઉ ઊ એ આઇ ઓ ઊઊ અમ અહ ક કઠ ગ ગઠ નગ ચ ચઠ જ જઠ ન્ય ત ઠ ઢ ઢઠ ન ઠ ઢ ઢઠ ન પ પઠ બ બઠ મ ય ર લ વ શ શઠ સ હ કશ ઢ	अ आ इ ई उ ऊ ए ऐ ओ औ अम् अह क क्ख ग ग्घ न्ग च च्छ ज ज्झ न्य त थ द द्ध न त थ द द्ध न प प्फ ब ब्भ म य र ल व श श्श स ह क्ख ढ	ಅ ಆ ಇ ಊ ಉ ಊ ಏ ಅಐ ಓ ಊಊ ಅಮ ಅಹ ಕ ಕ್ಕ ಗ ಗ್ಗ ನಗ ಚ ಚ್ಚ ಜ ಜ್ಜ ನ್ಯ ತ ಠ ಢ ಢಠ ನ ತ ಠ ಢ ಢಠ ನ ಪ ಪ್ಪ ಬ ಬ್ಬ ಮ ಯ ರ ಲ ವ ಶ ಶ್ಶ ಸ ಹ ಕ್ಕ ಢ	ا آ إ ई उ ऊ ए ऐ ओ औ अम् अह क क्ख ग ग्घ न्ग च च्छ ज ज्झ न्य त थ द द्ध न त थ द द्ध न प प्फ ब ब्भ म य र ल व श श्श स ह क्ख ढ

APPENDIX K. (See Rule 17.)  
FORM OF INDEX TO BOOK NO. II.

Name of presenting party.	Page.	Number.

APPENDIX L. (See Rule 19.)  
FORM OF DAY-BOOK.  
Wednesday, 15th July 18 .

Number.	Description of Instrument and Value of property affected thereby—particulars regarding Fees levied.	Number of Folios.	Fees.		Reference to Register.	Whether Registration ordered or refused, or whether Deed has been Withdrawn.	Date of Registration or refusal, i.e., the date on which the Registration has been ordered or refused.	Date of return to presenting parties.	Signature of Recipient.
			Copying.	Registration.					
			Ra. a. p.	Ra. a. p.					
	Conveyance (Ra. 1,500). Fine under Section 24, under clause 1 of the Fine Table .. .. .	24	\$ 12 0	5 0 0	Book No. I, Vol. 34, Pages 137 to 141, Se- rial No. 255-a.	Ordered ..	15th July 18	23rd July 18	A. B.
	1 Copy to Registrar of ..	....	....	7 8 0					
	3 Memoranda under Section .. .. .	....	\$ 12 0	....					
	Will .. .. .	12	1 8 0	....					
	Lease (Ra. 49) .. .. .	7	1 14 0	4 0 0					
			1 1 0	0 4 0					
			11 15 6	16 12 0					
				11 15 6					
	Total .. .. .	....	....	28 11 6					
	Wednesday, 15th July 18, after close of Treasury.								
	Mortgage with Posses- sion (Ra. 1,000) .. .. .	17	2 10 6	4 0 0	Book No. I, Vol. 35, Pages 150 to 142, Se- rial No. 256-a.	Ordered ..	15th July 18	23rd July 18	C. D.
	3 Memoranda under Section .. .. .	....	1 8 0	....					
			4 2 6	4 0 0					
				4 2 6					
	Total .. .. .	....	....	8 2 6					

(Signed) X. Y.,  
Sub-Registrar.

APPENDIX M. (See Rule 20.)  
FORM OF MINUTE BOOK.

Daily No.	
	Wednesday, 15th July 18 .
1	A. B. of C. D. presents for registration a document purporting to be Mortgage deed of a field executed in his favour by E. F., also of C. D.; proceedings postponed pending issue of a summons to E. F.
	(Signed) X. Y., Sub-Registrar.
	Thursday, 6th August 18 .
No 1 of 15th July 18 .	Resumed proceedings in regard to document, Daily No. 1 of 15th July 18 . A person, calling himself E. F., attends in obedience to a summons served upon him, and admits execution of the document. He is identified by G. H., a Vakil, practising in the Court of the Munsif of _____, who is known to the undersigned, or who, in his turn, is identified by K. L., who is known to the undersigned Registrar (or Sub-Registrar). Registration ordered in Book No. I.

(Signed) X. Y.,  
Sub-Registrar.

N.B.—In the case of consideration acknowledged after the words "admits execution of the document," add "and receipt of consideration." If any payment of money or delivery of goods is made in the presence of the Registering Officer with reference to the document that is presented for registration, a record to that effect in this book shall be made and signed by the Registering Officer, and shall also be endorsed on the document. Denial of receipt of consideration should also be noted.

## APPENDIX N. (See Rule 21.)

## FORM OF CASH-BOOK.

Wednesday, 15th July 18 .

For what Fees, &c., were realized.	Amount.
	Rs. a. p.
Amount of percentage now repaid by undersigned Sub-Registrar on Rs. 10, fee refund to <i>A. B.</i> on document No. , the registration of which was refused.	2 0 0
Amount of percentage now repaid by undersigned Sub-Registrar on Rs. 2-8, fee surcharged on document No. of , refunded...	0 8 0
Inspection of Register Book No. I. for 1873 allowed on application No. 1 of this date	1 0 0
Search of Registers for 1870 and 1871 on application No. 2 of this date	2 0 0
For personal attendance of Sub-Registrar at house of <i>A. B.</i> , to examine <i>A. B.</i> regarding special power of attorney executed by her	10 0 0
Attestation Fee levied in above case	2 0 0
Fine under Section 34 levied on resumption this day of proceedings, Daily No. 3 of 25th May 18 .	5 0 0
Copy granted of General No. 378 of 1871 on application No. 2 of 14th July 18 , 16 folios	2 8 0
Total of fees for registration and copying, &c., as shown in Day-Book of this day's date, before close of Treasury	28 11 6
Total	53 11 6
(Signed) <i>X. Y.</i> , Sub-Registrar.	
Received Rs. (53-11-6) fifty-three, annas eleven, and pies six only.	Details of above for guidance of Treasury Officer.
(Signed) <i>M. N.</i> , Officer in charge of Treasury.	(a) Registration fees. (b) Fines or penalties. (c) Fees for copies granted.
Fees for registration, copying, &c., as per Day-Book of this day's date, after close of Treasury	8 2 6
<i>Thursday, 16th July 18 .</i>	
Balance in hand from previous day	8 2 6
Total of fees for registration, copying, &c., as per Day-Book of this day's date	46 10 0
Total	54 12 6
(Signed) <i>X. Y.</i> , Sub-Registrar.	
Received Rs. (54-12-6) fifty-four, annas twelve, and pies six only.	
(Signed) <i>M. N.</i> , Officer in charge of Treasury.	* Details of above for guidance of Treasury Officer. (a) Registration fees. (b) Fines or penalties (c) Fees for copies granted.

\* Fines under Section 24 or 34 to be shown under item (b) in this abstract; fees for copies granted, but not copying fee, to be shown under item (c). All other fees and realizations, except sale proceeds of dead-stock articles which should, in the rare instances of such being realized, be entered under a separate heading of their own, to be shown under item (a) as registration fees.

## APPENDIX Q. (See Rule 23.)

## FORM OF BATTAS-BOOK.

Dr.

Wednesday, 15th July 18 .

Cr.

Number in Day-Book of document in connection with which fee was received.	For what Fees was taken.	Amount.	How disposed of.	Amount.
		Rs. a. p.		Rs. a. p.
1 of 15th July 18	From A. B. for a summons to C. D. (in Court Fees Stamps) ... ..	1 0 0	Returned to O. P., batta received for remuneration of witness Q. R., on whom summons could not be served ... ..	0 8 0
	Ditto ditto E. F. ditto ... ..	1 0 0		
	From A. B. for batta for C. D. ... ..	1 12 0	Forwarded to Magistrate with application for summonses to be issued to—	
	Ditto ditto for E. F. ... ..	0 10 0		
2 of 14th July	From G. H. for a summons to J. K. (in Court Fees Stamps) ... ..	1 0 0	C. D. ... Rs. 2 12 0	6 10 0
	For batta to ditto ... ..	1 4 0	E. F. ... " 1 10 0	
			J. K. ... " 2 4 0	
3 of 1st July	Batta returned by Magistrate, summons on Q. R. not having been served ... ..	0 8 0		
	Total ... ..	7 2 0	Total ... ..	7 2 0

(Signed) X. Y.,

Sub-Registrar.

(Signed) X. Y.,

Sub-Registrar.

Received Rs. (6-10-0) six, and annas ten only.

(Signed) M. N.,

Magistrate.

## APPENDIX P. (See Rule 26.)

## List of Books, Papers, &amp;c., destroyed under the provisions of Rule 26.

No. and date of the paper, &c., if any.		Subject of the paper, &c.	Date of destruction.	REMARKS.
No.	Date.			
				I hereby certify that these papers, &c., were destroyed in the presence of (Signature).

APPENDIX Q.

List of Documents destroyed under Section 85 and Rule 27.

Date of presentation.	Office in which presented.	Nature of document and value or amount of consideration.	Name of presenter.	Executed by	In favour of	Date of registration or refusal, as the case may be.	Date of order of destruction by the Inspector General.	Date of actual destruction.	Reference to Register.

APPENDIX R. (See Rule 31.)

\* Form of Memorandum under Sections 64, 65, 66, and 67 of Act III. of 1877.

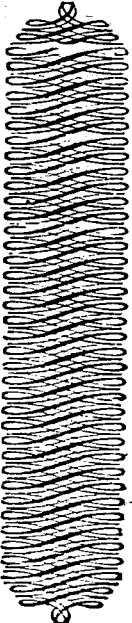
Serial Number.	Copy of endorsements and certificates, Sections 52, 58 to 60.	Nature of document.	Description and value of property affected by the document.	Situation of property.	Names of executing parties.	Place of residence.	Profession, rank, or title.	Names of claiming parties.	Place of residence.	Profession, rank or title.	Reference to Register.

Forwarded to the Sub-Registrar of \_\_\_\_\_ under Section \_\_\_\_\_ of the Indian Registration Act III. of 1877.  
 Date of receipt \_\_\_\_\_  
 † { Filed at Page \_\_\_\_\_, No. \_\_\_\_\_, Volume \_\_\_\_\_ Date \_\_\_\_\_  
 of Supplement to Book No. I., Part I. Registrar or Sub-Registrar.  
 Date \_\_\_\_\_ Sub-Registrar.

\* The value of the stamp on the original should be shown on the Memorandum as also the stamp-vendor's endorsement.  
 † This form of endorsement by the receiving and filing officer should be followed in the case of certificates filed in Supplement to Book No. I., Part III.

APPENDIX S. (See Rule 35, para. 1.)

Form of Miscellaneous Receipt.

Date .....		Date.....
Fee (or Travelling expenses) received for .....		Fee (or Travelling expenses) received for .....
Paid by .....		Paid by .....
Amount received .....		Amount received .....
Registrar (or Sub-Registrar).		Registrar (or Sub-Registrar).

APPENDIX T.

Form of Receipt under Section 52 and Rule 35, para. 2.

Daily No.

Date of 18

Nature of Document.

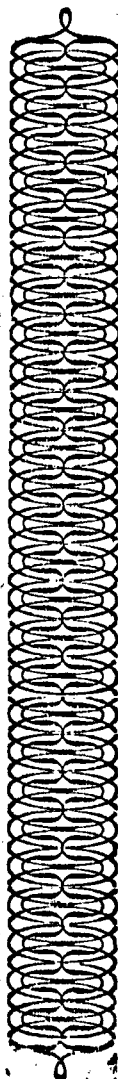
By whom presented.

Received fees as follows:—

Registration fee .....  
 Copying fee (folios) .....  
 Extra fee for registration by Registrar.....  
 Extra registration fee for registration at private residence .....  
 Attendance fee for ditto .....  
 Fee for copies or memoranda under Sections 64, 65, 66 and 67 .....  
 Fine under Section 24.....  
 Do. under Section 34.....

Total Rs. ...

Registrar (or Sub-Registrar).



Daily No.

Date of 18

Received for registration (or deposit) from

Received fees as follows:—

Registration fee .....  
 Copying fee (folios) .....  
 Extra fee for registration by Registrar.....  
 Extra registration fee for registration at private residence.....  
 Attendance fee for ditto .....  
 Fee for copies of memoranda under Sections 64, 65, 66 and 67.....  
 Fine under Section 24 .....  
 Do. under Section 34 .....

Total Rs. ...

Registrar (or Sub-Registrar).



## APPENDIX U. (See Rule 42.)

*Form of Endorsement and Certificate under Sections 58 to 60.*

*A. B.*, executing party, Merchant, resident at Thána, admits execution, and acknowledges or denies receipt of consideration, as the case may be. *A. B.* is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *A. B.*,

( „ ) *X. Y.*,

Registrar or Sub-Registrar.

15th July 18 .

Or *O. D.*, Writer, resident at Thána, examined as to identity of *A. B.*, *O. D.* is personally known to the undersigned; or *O. D.*, in his turn, identified by *E. F.*, who is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *O. D.*,

( „ ) *E. F.*,

( „ ) *X. Y.*,

Registrar or Sub-Registrar.

15th July 18 .

*E. F.* (Agent of *G. H.*, executing party), Vakíl, resident at Thána, admits execution by *G. H.*, and acknowledges or denies receipt of consideration, as the case may be. He is personally known to the undersigned Registrar (or Sub-Registrar), or as above.

(Signed) *E. F.*,

( „ ) *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

*A. B.*, Collector, executing party, resident at Thána, is exempt from personal appearance under Section 88 of the Indian Registration Act. III. of 1877. His signature and seal are identified by *O. D.*, Clerk, resident at Thána, who is personally known to the undersigned Registrar (or Sub-Registrar).

(Signed) *O. D.*,

( „ ) *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

Or the signature and seal of *A. B.*, Collector, are known to the undersigned Registrar (or Sub-Registrar).

(Signed) *X. Y.*,

Registrar or Sub-Registrar.

July 18 .

\* Registered No. 4 at page 12, Volume 11 of Book No. I.

L. S.

(Signed) *X. Y.*,

Registrar or Sub-Registrar.

16th July 18 .

\* Note.—The date of registration in the endorsement under Section 60 should be the date on which the document is compared with the copy in the Register Book, and the latter certified to be a true copy.

## APPENDIX V. (See Rule 66.)

*Register of Refunds (a) on account of Deeds refused for Registration, or (b) on account of Fees surcharged, or (c) on account of Fines remitted.*

Date of receipt by Registering Officer of bill or order on Treasury or Sub-Treasury for payment of refund.	Date of delivery of refund bill or order to party claiming the same.	Amount of refund bill or order.	Reference to page of Day-book in which entry regarding document appears.	Date of refusal of registration.*	Date of submission of refund bill for sanction.	Signature (in acknowledgment of refund bill or order) of party claiming the same.	Signature of Registering Officer.

\*NOTE 1.—This column is to be left blank in the case of refunds of fee surcharged or fines remitted.

NOTE 2.—In those offices in which, owing to there being no Treasury or Sub-Treasury close at hand, refunds are made through the means of a permanent advance, the headings of columns 2, 3 and 7, will be altered so as to show that the Registering Officer has paid the amount of refund in cash to the claiming party.

## APPENDIX W. (See Rule 67.)

## REGISTRATION RETURN.

*Detailed Statement showing the Articles of Fee Table, under which Fees shown in Columns 2, 3, 4, 5, 9, 10, 11, 12, 20, 21, 22 or 23, of this Return have been levied, and the number of Fees under each Article.*

NAME OF OFFICE.	BOOK NO. I.		BOOK NO. IV.
	Optional.	Compulsory.	

Registrar.

Registration Return of the

for the Month of

NAME OF OFFICE.	BOOK No. I.									
	REGISTRATION OF DOCUMENTS AFFECTING IMMOVEABLE PROPERTY.									
	OPTIONAL.									
	The value or consideration not exceeding Rs. 100.		The value or consideration exceeding Rs. 100, but not exceeding Rs. 1,000.		The value or consideration exceeding Rs. 1,000, but not exceeding Rs. 20,000.		The value or consideration exceeding Rs. 20,000.		No consideration, rent, or other value being expressed in the Deed.	
No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	

BOOK No. I.—continued.

REGISTRATION OF DOCUMENTS AFFECTING IMMOVEABLE PROPERTY—continued.

OPTIONAL—continued.				COMPULSORY.									
Separate Deeds acknowledging receipt or payment of consideration on account of other Deeds optionally registered.		Deeds falling under Article 27 of the Fee Table.		The Value or consideration not exceeding Rs. 100.		The value or consideration exceeding Rs. 100, but not exceeding Rs. 1,000.		The value or consideration exceeding Rs. 1,000, but not exceeding Rs. 20,000.		The value or consideration exceeding Rs. 20,000.		No consideration, rent or other value being expressed in the Deed.	
No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.

BOOK No. I.—continued.

REGISTRATION OF DOCUMENTS AFFECTING IMMOVEABLE PROPERTY—continued.						BOOK No. III.*					
COMPULSORY—continued.											
Separate Deeds acknowledging receipt or payment of consideration on account of other Deeds compulsorily registered.		Copying Fee, besides the ordinary Registration Fee.		TOTAL OF BOOK No. I., INCLUDING COPYING FEE.		Registration of Wills and of Authorities to Adopt.		Copying Fee, besides the ordinary Registration Fee.		TOTAL.	
No.	Fee.	No. of Folios.	Fee.	No.	Fee.	No.	Fee.	No. of Folios.	Fee.	No.	Fee.

\* Wills and Authorities to Adopt should be shown separately by using the letter *W* to denote Wills, and *AA* for Authorities to Adopt.



Copies granted.		Searches and Inspections.		Commissions (Sections 33 and 38).		Personal Attendance (Sections 31, 33, and 38).		Translations filed under Section 62.		Fees under Article 37 of the Fee Table.		Miscellaneous Receipts, i.e., Recovery of Fees less charged in former months, fines or percentage recovered from the Sub-Registrars, &c., &c.	TOTAL FEES, &c., RECEIVED.
No. of Folios.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.	No.	Fee.		

EXPENDITURE

ESTABLISHMENT.			Fixed Contingent Allowance.	Percentage to Sub-Registrars.	Printing and Stationery.	Furniture and House-rent.	Postage.
Permanent.	Temporary.	TOTAL.					

EXPENDITURE—continued.

Travelling Allowance.	Refunds.	Miscellaneous.	TOTAL.	SURPLUS.	DEFICIT.	REMARKS.

Deduct Deficit.....Rs.

Add Sale proceeds of Dead Stock articles sold as per Inspector General's No. of 18 .

Registrar.

Net Surplus...Rs.

Office of

18 .

B 514—58

APPENDIX X. (See Rule 67.)

Monthly Statement of arrears in the District of \_\_\_\_\_ on the 1st \_\_\_\_\_ 18 .

Registrar and Sub-Registrars.	Document to be copied.	No. of Documents of which Registration is delayed pending inquiry.						Total.	No. of Documents of which Registration is completed remaining unclaimed in Office.	REMARKS.
		Above 1 Month.	Above 2 Months.	Above 3 Months.	Above 4 Months.	Above 5 Months.	Above 6 Months.			

Statement of Inspections in the District of _____ during the month of _____ 18 .				Statement of Peon's Fees collected for Summons and for serving Warrants of Seizure of persons in the District of _____ during the Month of _____ 18 .							
Name of Sub-District.	Date of Inspection.	By whom inspected.		Name of Office.	SUMMONS.		WARRANTS.		TOTAL.		REMARKS.
		Registrar.	Assistant or District Deputy Collector.		No.	Fee.	No.	Fee.	No.	Fee.	

Registry Office, }

Registrar.

APPENDIX Y. (See Rule 69.)

FORM OF PERCENTAGE BILL,

Her Majesty's Government of Bombay.....Dr.

To AMOUNT OF PERCENTAGE at 20 per cent. due to on the Fees collected  
and paid into the Treasury of of to the credit of Government, during  
the Month of 18 .

1 Sub-District.	2 Name of the Sub-Registrar.	3 Collections.		4 How and when the collections were credited to Government in the Treasury Officer's Cash Account.				5 Percentage payable.			6 REMARKS.
		Fees.	Penalties.	Total amount paid into the Treasury.	Month.	Heading under which credited.	Item in which it is included.	Twenty per cent. on fees only.	Deduct fines.	Net amount of percentage payable.	

Date

Registrar, or Sub-Registrar.

CERTIFIED that the amounts entered in Column 4 have been credited to Government as above.

Date

Officer in charge of the Treasury.

## APPENDIX Z.

## REVENUE DEPARTMENT.

*Bombay Castle, 19th June 1878.*

The following form of security bond, prescribed under Government Resolution No. 4022, dated 15th July 1873, for use in the Registration Department, is published for general information in lieu of the form (U.) published at page 854 of the *Government Gazette* of 3rd August 1871 :—

Know all men by these presents that we A., B., and C. are held and firmly bound to the Secretary of State for India in Council, his successors and assigns, in the sum of Rs. to be paid to the said Secretary of State for India in Council, his successors or assigns, for which payment to be well and truly made, we bind ourselves and each of us, our and each of our Heirs, Executors and Administrators, and every of them jointly and severally by these presents, sealed with our seals, dated this . . . day of . . . in the Christian year, 18 . . .

2. Whereas the abovenamed A. is appointed to fill the office of a Sub-Registrar of Assurances in the Bombay Presidency, including Sind, and as the holder of such office he is a Public Accountant within the meaning of Act XII. of 1850. And whereas in pursuance of the Rules made by the Governor in Council of Bombay in that behalf, the said A. has procured two approved persons to be his sureties for the due discharge of the trusts of his office, and for the due account of all monies or documents which shall come into his possession or control by reason of his office.

3. And whereas the said B. and C. have agreed to become sureties to the said Secretary of State for India in Council, his successors and assigns, for the due discharge by the said A. of the trusts of his office, and for the due account of all monies or documents which shall come into his possession or control by reason of his office.

4. Now the condition of the above-written bond or obligation is such, that if the said A., B., and C., or any of them, their, or any of their Heirs, Executors or Administrators, shall pay, or cause to be paid, unto the said Secretary of State for India in Council, his successors or assigns, the amount of any loss or defalcation in the accounts of A., or of any loss or damage sustained by Government owing to the misconduct or neglect of the said A. with regard to the documents in his charge within 24 hours after the amount of any such loss or defalcation shall have been demanded by the person or persons at the head of the office to which the said A. belongs, such demand to be in writing, and to be left at the office or place of residence of A., B., and C., respectively, then the above-written bond or obligation shall be void, otherwise to remain in full force and virtue, and the person or persons at the head of the office, to which the said A. belongs, may proceed against him, and his sureties, the said B. and C., for the said loss or defalcation in the accounts of A., or arising out of his misconduct or neglect as if the amount thereof were an arrear of land revenue due by them or any of them to Government. In witness whereof the said A., B., and C. hereunto set their hands and seals, this . . . day of . . . 18 . . .



The following Table of Fees payable under the Indian Registration Act III of 1877 is, with the sanction of the Governor General of India in Council, republished for general information in supersession of the former Table which was published at page 881 of the *Bombay Government Gazette* of 11th October 1877.

I.—For the registration of any Deed of Conveyance, Gift, Partition, Sale or Mortgage, or of any Lease, Bond, Award, Acknowledgment, Agreement, Assignment, Bill of Exchange, Promissory Note, Bill of Sale, Composition-Deed or Contract, or of a certified copy of any Decree or order of Court, or of any Covenant, Grant, Release Settlement, Articles of Partnership, or Instrument of Dissolution of Partnership, or Instruments of the nature of Revocation of any Trust or Settlement, or Transfers of all kinds, or Declaration of Trust, or any other instrument of a like nature :—

(Ad-valorem Fees.)

				R.	a.	p.
If the value or consideration of the instrument is expressed therein.	1.	When the value or consideration does not exceed Rs. 50	...	0	4	0
	2.	Do. do. exceeds Rs. 50 but does not exceed Rs. 100	...	0	8	0
	3.	Do. do. ... 100	do. 200	1	0	0
	4.	Do. do. ... 200	do. 300	1	8	0
	5.	Do. do. ... 300	do. 400	2	0	0
	6.	Do. do. ... 400	do. 600	3	0	0
	7.	Do. do. ... 600	do. 1,000	4	0	0
	8.	Do. do. ... 1,000	do. 1,500	5	0	0
	9.	Do. do. ... 1,500	do. 2,000	6	0	0
	10.	Do. do. ... 2,000	do. 3,000	8	0	0
	11.	Do. do. ... 3,000	do. 4,000	10	0	0
	12.	Do. do. ... 4,000	do. 5,000	12	0	0
	13.	Do. do. ... 5,000	do. 7,500	14	0	0
	14.	Do. do. ... 7,500	do. 10,000	16	0	0
	15.	Do. do. ... 10,000	do. 15,000	18	0	0
	16.	Do. do. ... 15,000	do. 20,000	20	0	0
	17.	For every Rs. 1,000 or part thereof in excess of Rs. 20,000 up to and not exceeding 50,000	...	1	0	0
	18.	Do. do. ... 50,000	do. 1,00,000	0	8	0
	19.	Do. do. ... 1,00,000	...	0	4	0

(Special Fees.)

20.	If the value or consideration of the instrument is not expressed therein	...	Rs. 10	0	0
21.	If the value or consideration be only partly expressed an ad-valorem fee as above on the value or consideration so expressed, and in addition an extra fee of	...	2	0	0

II.—For registration of a separate deed, acknowledging receipt or payment of consideration on account of another deed which is also registered.

The same fee as for the original deed; if not exceeding Rs. 2; otherwise, Rs. 2.

Fixed Fee.

III.—For the registration of any Power of Attorney, Writing of Divorcement, Certificate of Heirship, Guardianship, Administratorship, or Executorship, or of any document not falling within any other article of this Table.

... .. 2 0 0

Wills and authorities to adopt.

IV.—For registration of a Will when presented open, or of an authority to adopt ... .. Rs. 4 0 0  
 V.—For deposit of a sealed cover containing a Will ... .. 4 0 0  
 VI.—For opening such cover ... .. 4 0 0

Besides the expense of copying the superscription or contents according to the rate laid down in Article IX.

VII.—For withdrawal of such cover ... .. 4 0 0

## Searches and Inspections.

	Rs. a p.
VIII.—*For searching for entry by Registering Officer, or for allowing applicants to inspect Books or Indexes, for every year of which the Register or Index is searched or inspected. } (Copying Fees, Grant of Copies, &c.)	... 1 0 0
IX.—Copying fee, besides the ordinary registration fee, for each folio of 100 words.	
X.—For making or granting copies of entries and documents for the benefit of any person, or to be forwarded to any other office under Sections 65, 66, and 67, or for making or granting copies of reasons for refusal by a Registrar under Section 76, for each folio of 100 words. }	... 0 2 6
XI.—For granting copy of map:— Provided that the arrangements for, and the cost of, making such copy must be made and borne by the person who applies for it ...	... 0 8 0
(Extra or additional Fees.)	
XII.—†For registration of any documents by a Registrar ...	5 0 0 In addition to the ordinary fee.
XIII.—Registration by the Registrar of Bombay, under Section 30, Clause B—	
(a) If the document relates to property situated in the Bombay Presidency, but beyond the limits of the Bombay Registration District... Rs. 10 0 0	In addition to the ordinary fee.
(b) If the document relates to property situated beyond the limits of the Bombay Presidency... Rs. 20 0 0	
XIV.—For the issue of a commission under Section 33 or 38—	
(a) If the person is physically unable to attend the office, or is confined in Jail ...	5 0 0
(b) Otherwise ...	10 0 0
XV.—For filing translation (Section 62) ...	2 0 0
XVI.—‡For attendance at private residence, or Jail, under Section 33 for the purpose of attesting a power of attorney, or for attendance under Section 31 for acceptance for registration or deposit, or for attendance under Section 38 for the examination of any person. {	In addition to the ordinary fee and necessary travelling expenses, &c. \$
If the person is physically unable to attend the office, or is confined in Jail ... Rs. 5 0 0	
Otherwise „ 10 0 0	
And an extra attestation or registration fee equal to the ordinary attestation or registration fee.	
XVII.—For the safe custody and return of any document presented for registration and not applied for under para. 2 of Section 61 of the Act within two months from the date of registration, namely, for every day in the third month from date of registration until such document is so applied for	0 1 0
Do. in the fourth month ...	0 2 0
Do. in the fifth month ...	0 3 0
Do. in the sixth month and successive months ...	0 4 0
(Memoranda, Attestation, Summons and Warrants Fees.)	
XVIII.—For every copy of the memorandum to be sent under Sections 64, 65 and 66 ...	0 8 0
XIX.—For the attestation of a power of attorney, if Special ...	1 0 0
Do. do. if General ...	2 0 0
XX.—Peons' fee for every summons ...	1 0 0
XXI.—For every warrant for seizure of person ...	2 0 0

\* If, in an application to the Registering Officer for the copy of an entry, the names of the claiming and executing parties, the nature of the document, and date of registration be shown, the fee for such will not be levied.  
Government officers requiring to inspect or search the registers or take copies of entries, for *bona fide* public purposes, are exempted from the payment of fees.

† When the registration of any document properly registrable by a Sub-Registrar is performed by a Registrar, owing to the former being a party to the transaction represented by such document, the extra fee will not be charged.

‡ When an attendance takes place under both Sections 31 and 38 at the same time and place, if the registration of but one document is concerned, only one attendance fee and one extra registration fee will be levied. If a Registering Officer, where the registration of one document is concerned, attends on the presenter on one occasion, and the executant or another necessary witness on another occasion, two attendance fees and two extra registration fees will be levied. If a Registering Officer attends at a private residence or Jail, and one person presents several documents, or one person admits the execution of several documents at one and the same time and place, only one attendance fee will be levied, but an extra registration fee (or, when the admission of execution takes place, with a view to the attestation of a power of attorney, an extra attestation fee.) will be levied in the case of each document. When several different persons at one and the same time and place present for registration or admit execution of several different documents, the Registering Officer will levy an attendance fee for each distinct transaction, the extra registration fee (or, in the case of powers of attorney attested, the extra attestation fee,) being leviable in the case of each document.

§ i. e., four annas a mile by road, and one-and-a-half anna by rail, and actual passage-money by steamer.

*Note 1.*—In the case of a lease one whole year's rent, in addition to the amount of the fine or premium, if any, paid or payable in respect of such lease, will be deemed to be the value or consideration of such lease; and in the case of an annuity, or service-bond, the amount of annuity or remuneration payable for one whole year will be deemed to be the value or consideration of such bond.

*Note 2.*—If, in any such case, the amount of rent, annuity, or remuneration payable varies for different years, the registration fee will be calculated on the amount payable for the first year, if such amount be not less than the amount payable for any subsequent year. If the amount payable for the first year be less than the amount payable for any subsequent year, the registration fee will be calculated on the average of the amounts payable annually for the term for which the lease, annuity, or service-bond purports to have been executed.

*Note 3.*—If, in any such case, the rent, annuity, or remuneration is payable partly in money and partly in kind, and the money value of the portion payable in kind is not expressed, the registration fee will be charged at twice the amount of the *ad-valorem* fee chargeable in respect of the amount payable in money. And, if the rent, annuity, or remuneration is payable entirely in kind, and the money value thereof is not expressed, a fixed registration fee of Rs. 2 will be charged under Article iii.

*Note 4.*—If a patta or lease be given to a ryot, and the *Kabulayat* or counterpart of such patta or lease be brought for registration at the same time as the patta or lease, the registration fee chargeable in respect of the two documents shall not be greater than the fee which would have been charged on the patta or lease alone.

*Table of fines leviable under Rule 8 of the Rules made under the Indian Registration Act.*

Table of Fines leviable under Rule 8 for delay in presentation or appearance (Sections 24 and 34).			
If less than one month...	...	...	2½ times the proper registration fee.
More than one month but less than two	...	5	ditto ditto.
More than two months but less than three	...	7½	ditto ditto.
More than three months	...	10	ditto ditto.

*Note.*—Time within which from date of execution, save in the case of deeds presented under Section 25, a document can be presented free of fine—4 months.

Time within which from date of execution, save in the case of admission of execution of deeds presented under Section 25, executant can admit execution free of fine—8 months.

In the case of a deed executed out of British India, such deed if not presented within four months from date of its arrival in this country cannot be accepted for registration at all. Extra period of four months allowed by Section 34 for appearance of executant or his Agent under payment of fine in this latter case commences to run on the expiration of four months from date of arrival of deed in the country.

These instructions must be read in conjunction with Section 26 of the Registration Act.

PART XII.

RULES UNDER THE INDIAN OPIUM  
ACT, 1878.\*

*Preliminary.*

1. In these Rules, unless there be something repugnant in the subject or context—

Definitions.

(1) "Opium" has the meaning defined in the Act.

(2) "Commissioner" and "Deputy Commissioner" mean the Commissioner of Customs, Opium and Abkari, and the Deputy Commissioner of Customs and Opium, respectively.

(3) "Collector" means any Revenue Officer in independent charge of a district, and, within the limits of the Town of Bombay the Deputy Commissioner of Customs and Opium; it also includes any Assistant Collector, Deputy Collector, or Assistant Commissioner of Customs and Opium, duly authorized by such Collector or Deputy Commissioner to perform all or any of the duties imposed on a Collector by these Rules.

(4) "Farmer" means a person who has obtained from the Collector a farm under Rule 39.

(5) "Licensed vendor" means a person who has obtained a license for retail vend under Rule 35 or 41.

(6) "Presidency of Bombay" includes Sind.

(7) "Town of Bombay" means the area comprised in the limits of the jurisdiction of the Presidency Magistrates.

*Cultivation and Manufacture.*

2. The cultivation of the poppy, and, except as provided in Rules 21, 35, 39 and 40, the manufacture of opium, are prohibited within the Presidency of Bombay.

Cultivation of poppy prohibited,

*Possession.*

3. Except as provided in Rules 4 and 5—

Possession of opium.

(i) No person shall have in his possession any opium other than opium purchased from the Government, or from a farmer or licensed vendor or under Rule 32.

(ii) No person, not being a farmer or licensed vendor, shall have in his possession more than five seers of "poppy heads" and ten tolas of any description of opium not being "poppy heads."

4. Rule 3 does not apply to—

Exemption.

\* The Act came into force in the whole of the Presidency of Bombay on the 1st April 1878. (*Bombay Government Gazette* of 27th March 1878.)

- (i) Opium in transit covered by a permit under Rule 6.
- (ii) Opium lawfully imported—
  - (a) during transit to its destination;
  - (b) when registered and deposited under the provisions of Rule 18.

5. The Collector may grant (a) to any medical practitioner residing within his district a license in the form marked A., hereto annexed, for the possession of opium for medical purposes only; (b) 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 ten tolas.

*Transport.*

6. The transport from one place to another within the Presidency of Bombay of any quantity of opium exceeding ten tolas in weight is prohibited except under cover of a permit in Form B., hereto annexed, granted—

- (a) in the case of opium to be transported from one place to another within the Town of Bombay, or from any place within to any place without the Town of Bombay, by the Deputy Commissioner;
- (b) in the case of opium to be transported from any place in the Presidency outside the Town of Bombay to the Town of Bombay, or to any other place in the Presidency, by the Collector of the place from which it is to be despatched:

Provided that in the case of opium removed from a Government depôt to a retail-shop, a permit in the form C., hereto annexed, may be granted by the officer in charge of such depôt.

No permit for transport of opium imported for exportation shall be given except for whole or half chests.

7. Except in the case of transport from one place to another within the Town of Bombay or within any district, no such permit shall be granted unless the person applying for it can produce a written permission so to apply signed—

- (a) if transport to a place within the Town of Bombay be applied for,—by the Deputy Commissioner;
- (b) if transport to any district be applied for,—by the Collector of such district.

A copy of the permit granted shall be sent—  
 in case (a), to the Deputy Commissioner;  
 in case (b), to the Collector of the district to which the opium is to be transported.

8. No package containing opium shall be opened during transport.

9. The permit and the packages shall, on arrival, be presented for examination to the Collector.

If, after examination, the Collector concludes that the packages have not been opened or tampered with in transit, if their number is complete, and if

they be found to be of the full weight specified in the pass (less such allowance for dryage, if any, as the Local Government from time to time prescribes), the packages may be dealt with by the owner as the law or these Rules allow, the permit being retained by the examining officer. Otherwise, the packages shall be detained and dealt with as the law or the orders of any duly authorized authority may direct.

*Import.*

10. No opium shall be imported into the Presidency of Bombay except—

- (a) booked through by railway for re-exportation to other parts of British India, or to Native States;
- (b) for exportation by sea from the Port of Bombay;
- (c) for retail sale by licensed vendors, in any district in which the direct importation of opium for such sale is sanctioned by the Local Government, and subject to any conditions which the Local Government may from time to time prescribe;\*

Provided that any opium imported for either of the purposes mentioned in clause (b) and clause (c) may, after it reaches its destination in the Presidency of Bombay, and with the permission in writing of the Collector, be dealt with in any other way permitted by the law for the time being in force. But, subject to any other conditions which the Local Government may prescribe in this behalf the Collector shall not permit opium imported for exportation by sea from the port of Bombay to be disposed of for consumption in the Presidency of Bombay or exported under Rule 26 until the difference between the duty already levied and that which would have been leviable if the opium had not been imported for exportation by sea from the Port of Bombay has been paid. Where the Collector permits opium not imported for exportation by sea from the port of Bombay to be dealt with as opium imported for exportation by sea from that port, he shall refund the difference between the duty already levied and that which would have been leviable if the opium had been imported for exportation by sea from that port.

11. No opium shall be imported into the Presidency of Bombay except by the following routes, that is to say—

- (a) from any place on the frontier of the Kadi Division in the territory of His Highness the Gaikwár, which the Local Government may from time to time appoint, direct to the Town of Ahmedabad;†
- (b) by railway, from Khándwa, or *via* Pálanpur and Ahmedabad;
- (c) by sea, at the port of Bombay only:

\* *Vide* Appendix A., F., and G. of this Part.

† *Vide* Appendix B. of this Part.

(d) from Udepur by Kája, Bárápal, Parsad, Rákhádes, Kherwára, Vichwára, Sámera, Sámláji, Tintoi, Bakrol, Lemboi, Dhákrol, Modhuka, Harsol, Ujdia, Dehgám, Naroda to Ahmedabad.

12. Opium booked through for re-exportation to other parts of British India or Native States shall be detained and examined as to number, weight and tampering in transit at any railway station in the Presidency which the Local Government may appoint in this behalf.\*

13. Opium imported by land for exportation by sea shall be brought direct into the Town of Bombay and there deposited, in the manner provided in Rule 18, until such time as it may be disposed of.

14. No opium shall be imported except after payment of the duty (if any)† imposed by the Governor General in Council under section 6 of the Opium Act, 1878, and under a pass in the form marked D., hereto annexed, or in such other form as the Commissioner may from time to time prescribe, granted by the Government Opium Agent at Indore, Udepur, Ujein, Rutlam, Dhár, Ajmir, Ahmedabad, or Mandesar or by some other officer duly authorized in that behalf by the Governor General in Council or the Local Government, respectively.‡

15. The duty on opium intended for exportation by sea shall be payable at the Ahmedabad Opium Agency in cash or by hundi payable at sight at the Bank of Bombay, at Ajmir in cash or by hundi on some trustworthy firm in Bombay, and at all other Agencies by such hundis only.

16. Intimation of the passes granted, and hundis received daily, shall be sent by the officer granting and receiving the same direct to the Deputy Commissioner and to the Bank of Bombay (in the case of hundis thereon); and, when the opium concerned is intended for retail sale by licensed vendors, or for immediate re-exportation from the Presidency of Bombay to another part of British India or to a Native State, to the Collector or Political Officer of the locality to which the opium is to be sent. The passes shall be delivered to the importers to cover their consignments.

17. No opium shall be imported into the Presidency of Bombay—

- (a) except in whole chests containing 140 lbs. of opium, or half chests containing 70 lbs., plus such allowance, if any, for dryage as the Local Government may from time to time prescribe;
- (b) unless each such chest or half chest be marked with the consecutive number of the pass, the total number of chests forming the consignment, and the distinctive brand of the office from which the pass was issued.

17 A. Notwithstanding anything contained in Rule 17, opium booked through by railway for re-exportation to the Presidency of Madras may be imported in strong wicker baskets subject to the following conditions:—

\* *Vide* Appendix C. of this Part.

‡ *Vide* Appendix D. of this Part.

- (a) Each basket shall be stoutly and securely sewn over with leather and shall contain ten lbs. of opium.
- (b) Seven of such baskets shall be packed in a strong gunny or cloth bag, which shall be securely sewn.
- (c) Each bag shall have a label sewn on it showing the number of its covering pass and its weight at the scales, and a distinguishing number or mark.

18. Opium imported direct from the frontier into the Town of Bombay shall, on arrival, be presented to the Deputy Commissioner, together with the pass covering the same, and a notice in writing, signed by the importer, stating where the opium is to be deposited. The consignment shall be verified in the manner specified in Rule 9. The name of the place so notified shall be endorsed on the pass and entered in a register and the opium shall be at once deposited in such place :

Provided that any such opium may be detained by the Deputy Commissioner, at the risk of the consignee, until payment of the duty (when it is paid by hundi) has been certified by the Bank of Bombay, or until any other condition prescribed by this Rule has been fulfilled.

19. The Commissioner or Deputy Commissioner; and any person duly authorized by either of them, may at any time enter into any place registered under Rule 18, and may weigh or otherwise take an account of any opium that may be there.

20. No opium shall be removed from any such registered place of deposit except under a transport permit issued under these Rules. A note of every such permit and of the name of the place where the opium is to be deposited shall be endorsed on the original import pass, which shall be produced for the purpose, and shall be entered in a register to be kept by the Deputy Commissioner.

21. Opium imported into the Town of Bombay may, for export purposes, be manufactured into chandul, but such chandul shall continue liable to all the restrictions on transport which under these Rules apply to opium. The manufacture shall be conducted under licenses to be issued by the Deputy Commissioner on such conditions as the Commissioner may from time to time prescribe.

*Export.*

22. Opium imported under these Rules for exportation by sea may be so exported from the Port of Bombay only, at any time within two years from the date of the pass. At the expiry of two years from date of issue all import passes shall become void, and shall not be available either for export purposes under these Rules, or for the protection of the opium imported under them, possession of which shall thereupon be deemed unlawful : Provided that such expired passes may be renewed by the Commissioner for a period not exceeding six months, on due cause shown, and on payment of a fee, not exceeding the



rate of Rs. 100 on each whole chest for which renewal is required.

23. Opium exported by sea shall be packed in whole or half chests containing the weights specified in section 17 of these Rules.

24. The original import pass covering the consignment shall be produced at the time of export for the purpose of registry and check; and if the opium to be exported, or any part of it, has been removed from the registered place of its deposit on importation, no shipping bill shall be granted unless the transport permit be produced for endorsement or cancellation.

Each import pass shall be cancelled and retained at the Custom House whenever the opium mentioned therein has all been exported.

25. Opium converted into chandul under Rule 21 may be exported under the same conditions as are provided in Rules 22 to 24 for ordinary opium, at the rate of 140 lbs. of chandul to 70 lbs. of opium.

26. When any person desires to export opium from the Presidency of Bombay into any Foreign State, or into any other part of British India, he shall obtain a pass for each consignment, in such form as the Commissioner may from time to time prescribe, from the Collector of the district from which such opium is to be exported, or, in the case of export from the Town of Bombay, from the Deputy Commissioner.

The pass shall specify—

- (1) the name of the person in charge of the consignment,
- (2) the name of the consignee,
- (3) the number of packages and the weight and contents of each, and
- (4) the destination of the consignment.

But no such pass shall be granted unless the person applying for it produces a written permission so to apply, signed by the Collector of the district, or the Political Officer, accredited to the Foreign State into which such opium is to be imported.

27. The Collector may thereupon grant a pass for the export of such opium.

Each package shall be sealed in the presence of the officer granting the pass and with his official seal.

#### *Transshipment and Re-export.*

27A. Notwithstanding anything hereinbefore contained to the contrary, Transshipment and re-export conditions. opium not the produce of India may be imported by sea into the ports of Bombay, Karáchi, or Aden, from any port in Persia manifested for transshipment or for re-exportation in the same bottom, and may be re-exported by sea from the said ports.

All such opium imported into and re-exported from the said ports in the same bottom shall be liable to a duty of Rs. 100 per chest not exceeding 140½ lbs. avoirdupois net weight.

*General Rules as to Opium transported, imported and exported.*

28. No railway company shall receive or convey opium not covered and accompanied by a permit or pass of

General rules.

an officer competent under these Rules to grant the same; or shall convey opium otherwise than direct, and in the custody of its own officers, to the station at which, according to the route prescribed in such permit or pass, it should leave the railway.

29. The bulk of a consignment of opium in transport or in transit in the course of importation or exportation shall not be broken; and any Revenue officer not inferior in grade to a mahalkari, or any Police officer not inferior in grade to a head constable, may at any time examine such a consignment. If, after such examination, the officer concludes that the packages have not been opened or tampered with in such transport or transit, if their number corresponds with the number specified in the permit or pass, and if they be of the full weight specified in such permit or pass (less the allowance, if any, granted for dryage), the consignment shall be allowed to proceed. Otherwise the consignment shall be detained and disposed of according to law.

29A.—Opium, the property of farmers licensed by

*Depôts—*

Navsári.

Baroda.

Kadi.

*Sub-depôts—*

Viára.

Velacha.

Petlad.

Dehgam.

Patan.

Kherálu.

His Highness the Gáikwár for the retail sale of opium in His Highness' territories, and intended for the supply of the said farmer's retail shops, may be imported into and transported through or exported from British territory when taken direct from one or other of the depôts and sub-depôts

mentioned in the margin under cover of permits issued and signed by a Náib-Subha of a Division or of a Táluka of His Highness' territories to the retail shop at which it is to be sold. Such permit shall be in Form C appended to these Rules.

*Sale.*

30. Opium is said to be sold "retail" when a quantity less than half a chest of 140 lbs. is sold in a single transaction. It is said to be sold "wholesale" when half such a chest or any larger quantity is so sold.

Sale of opium.

31. No person shall sell any opium to any person not legally authorized to possess the same.

32. Opium placed in deposit under Rule 18 may be sold wholesale in the Town of Bombay pending its disposal subject to the provision of these Rules as to removal from places of registered deposit, and provided that only whole chests or half chests shall be so sold.

33. No person shall retail opium without a license. Provided that any medical practitioner to whom a license has been granted under Rule 5 may sell opium in quantities not exceeding in any one

transaction ten tolas as medicine or in medical preparations.

34. No retail vendor shall sell more than ten tolas of the inspissated juice of the poppy, or of any preparation or admixture thereof, or of any intoxicating drug prepared from the poppy, or more than 5 seers of "poppy-head," except to a licensed vendor or farmer or to a medical practitioner or other person holding a special permit granted by the Collector under Rule 5, or under a special order from the Commissioner or a Collector.

35. Licenses for the retail of opium or for the manufacture or retail of all or any intoxicating drugs prepared from the poppy may be granted for the Town of Bombay by the Deputy Commissioner, and for other parts of the Presidency by the Collector of the district. Such licenses shall be in the form E. hereto annexed, or in such other form as the Commissioner may from time to time prescribe.

36. Whenever a license is granted for the retail of opium, the officer who grants it shall demand such payments and shall impose in the license such conditions on the licensee as may from time to time be prescribed by the Commissioner.

37. Every person taking out such a license shall execute a counterpart engagement for the due performance of all the conditions expressed therein and shall give such security for the performance of his engagement, or make such deposit in lieu of security, as the officer granting the license may require.

38. Licenses for retail shall be granted for one year only, unless the Commissioner shall otherwise specifically direct.

39. With the general or special sanction of the Commissioner, the Collector may let in farm the right to retail opium or to retail or manufacture all or any intoxicating drugs prepared from the poppy, in any local area under his control, for a term not exceeding five years. The Commissioner may prescribe rules (a) for the invitation and acceptance of tenders for such farms, (b) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and (c) as to the form and conditions of such leases. Any breach of such engagement shall render the lease liable to annulment by the authority by whom the farm was sanctioned.

40. When any such farm is given, the farmer may make his own arrangements for the appointment of subordinate vendors, and for the manufacture of intoxicating drugs, within the limits of his farm and subject to the conditions of his lease, provided that no opium except that supplied from a Government depot and opium lawfully imported under clause (c), Rule 10, and opium otherwise lawfully obtained, shall be retailed or used in the manufacture of such drugs.

41. Licenses for the retail of opium, or of intoxicating drugs prepared from the poppy, by persons

appointed by the farmer to retail on his behalf, shall be granted by the Collector in such form and on such conditions, consistent with the conditions of the farm, as the Commissioner may from time to time prescribe.

42. With the sanction of the Commissioner, the Collector may cancel any lease granted under Rule 39; or may, within the period of the lease, impose any new reservation or restriction on the farmer.

If any such lease be cancelled for any cause other than a breach of the conditions thereof, or if any reservation or restriction with respect to the grant of licenses be imposed during the lease, the Commissioner shall award such compensation as he thinks reasonable to the farmer for any damage sustained by him by reason of such cancellation, reservation, or restriction.

43. If any licensed vendor or farmer shall have in his possession, on the expiry of his license or farm, any opium which he is unable to dispose of, to the satisfaction of the Collector, by private sale to other licensed vendors or farmers, he shall surrender the same to the Collector; and the incoming licensed vendor or farmer, or, if the expired license or farm is not renewed, any licensed vendor or farmer within the district, when required by the Collector, shall be bound to purchase the opium aforesaid to the extent of two months' supply, at such price and in such quantities as the Collector shall adjudge: Provided that the price of opium thus adjudged shall in no case exceed the rate at which it can be procured from the Government: Provided also that, if such opium be, in the opinion of the Collector, unfit for use, the Collector shall cause it to be destroyed.

44. Central and subsidiary depôts of opium for issue to licensed retailers and farmers and for other Government purposes shall be established at Bombay and such other places as the Local Government may from time to time direct.

45. The opium required for these depôts shall be imported from Málwa or Bengal, or otherwise procured as the Local Government may direct, and shall be stored in the first instance at the central depôts, whence it will be supplied on indents to the subsidiary depôts as required.

46. Opium shall be issued from the Government depôts to licensed vendors at a price to be fixed and notified from time to time by the Local Government.\*

*Import, &c., on behalf of the Government.*

47. Nothing contained in the foregoing Rules shall be deemed to affect the possession, transport, import, Government opium.

\*The following are the Issue rates now in force under the sanction of Government:—

For opium issued from—

- (a) the Rájkot Depôt—Rs. 13-4 per lb. of 40 tolas each. (Government Notification No. 4934, dated 26th January 1882.)
- (b) all other depôts, Rs. 12 per lb. of 40 tolas each. (Government Notification No. 4933, dated 26th July 1882.)

export or sale of opium by or on behalf of the Government.

*Permission to import, export, transport and sell Opium.*

48. Subject to the prohibitions, conditions and regulations imposed and prescribed by the foregoing Rules, the manufacture, possession, import, export, transport, and sale of opium are permitted.

*Disposal of things confiscated.*

49. Opium confiscated under the Opium Act 1878, shall be examined by the Collector and, if declared by him to be fit for use, shall be sent to the nearest depôt. If declared to be unfit for use, it shall be immediately destroyed.

50. If the opium so sent to a depôt be of quality sufficiently good for retail purposes, it shall be added to the stock at the depôt. But if such opium be of inferior quality, it may be issued to retail dealers at a special rate proportioned to its quality, but shall be subject in other respects to the same conditions as other opium.

51. All property, other than opium, which is confiscated under the Opium Act, 1878, shall be sold under the orders of the Magistrate or other officer by whom the confiscation was adjudged.

*Rewards to be paid to Officers and Informers.*

52. Any Magistrate convicting an offender under section 9, or any Magistrate or other authorized officer ordering the confiscation of opium under section 12 of the Opium Act, 1878, may grant, in such proportions as he thinks fit, to any person or persons who have contributed to the seizure of the opium or the conviction of the offender, a reward not exceeding the value of the opium and other articles confiscated in the case, *plus* the amount of any fine imposed; or may place such aggregate amount to be awarded at the disposal of the head of the department of which any officer or officers may have contributed to the seizure of the opium or the conviction of the offender, to be distributed by such head of the department in such proportions as he thinks fit among persons whom he may consider to be entitled to reward in connection with such seizure or conviction.

53. In any case in which, in the opinion of the Commissioner, any person has performed any service of special merit in respect of the prevention or detection of opium smuggling or of any offence against the Opium Act, 1878, the Commissioner may grant to such person a reward not exceeding in amount Rs. 500.

The Commissioner, or, with the sanction of the Commissioner, a Collector or the Collector of Salt Revenue, may incur at his discretion expenditure not exceeding Rs. 500 in each case for the employment of informers or for any other purpose connected with the prevention or detection of opium smuggling or of any offence against the Opium Act, 1878.

The Commissioner shall, from time to time, report to the Government the circumstances under which any reward may have been granted or expenditure may have been incurred under this Rule.

*Control.*

54. All Collectors shall, as regards any matter arising in the administration of these Rules, be subject to the general control of the Commissioner.

55. The decision of the Collector as to the value of opium which has been seized shall be final.

FORMS.

**A.—SPECIAL LICENSE TO MEDICAL PRACTITIONER UNDER RULE V.**

Special License granted to *A. B.*, following the profession of \_\_\_\_\_ at  
 in the \_\_\_\_\_ of \_\_\_\_\_ for the possession of opium, on the  
 condition that such opium shall be procured from a Government depôt, or a licensed vendor)  
 and shall be used *bonâ fide* as medicine or in medical preparations or prescriptions.

18 .

Collector (or, as the case may be).

**B.—PERMIT FOR TRANSPORT OF OPIUM.**

No. \_\_\_\_\_ of \_\_\_\_\_

Pass from (*here state locality and district*) to (*here state locality and district*), by (*here give route and mode of conveyance*), in charge of (*here give name*), Opium to the amount of (*here state weight*) in (*here state number and description of packages*).

This Pass is to remain in force from (*specify date or hour*) to \_\_\_\_\_ and to be delivered on arrival of the Opium at its destination to (*here enter name or official designation*).

Dated \_\_\_\_\_ 18 .

Collector (or, as the case may be).

**C.—PERMIT FOR CONVEYANCE OF OPIUM FROM GOVERNMENT DEPÔT TO SHOP FOR RETAIL SALE.**

No. \_\_\_\_\_ of \_\_\_\_\_

Pass from the Government Opium Depôt at \_\_\_\_\_ to the shop of (*here enter name*), at (*here enter locality and shop*) Seers \_\_\_\_\_ Tolas \_\_\_\_\_ of Opium in charge of (*here enter name*) between the hours of \_\_\_\_\_ m. and \_\_\_\_\_ m. on the (*here enter date*) 18 .

Dated at (*Bombay*), 18 .

Officer in charge of Depôt.

D.—IMPORT PASS



No. of 18 OPIUM.

PASSPORT.

Paid on the

18 .

Importer  
Consignee  
In charge  
Rs.  
Chests  
Half chests  
Rs.  
Net weight  
Allowance for leaf and  
dust.  
Total net weight of a  
chest.

WHEREAS

having paid to the British Government the sum of  
Rupees  
as a consideration for the privilege of importing from  
(*Málwa, or as the case may be*) to Bombay Chests of  
Opium containing pounds of *Málwa* Opium at the  
rate of hundred Rupees per 140½ (one hundred  
and forty and a quarter) pounds weight, and the said  
having agreed to pay all Customs and  
Duties thereon to the Native States and Chiefs through  
whose territories the Opium will have to pass  
heroby permitted to convey by the route described in the  
margin, from (*Málwa, or as the case may be*) to *Bombay, for  
exportation thence by sea, (or as the case may be)* the above  
quantity, in such packages as shall hereupon be endorsed,  
free of any further duties whatever.

This pass will be valid until the 18  
and no longer.

By order of His Excellency the Honourable the Governor  
in Council,

Route (*here give stations  
of departure and arri-  
val and line to be  
travelled over.*)

Indore Opium Agent's Office, }

18 . }

Registered (*here enter No. and Date.*)

Place of Deposit:

Bombay Custom House, }

18 . }

Deputy Commissioner of Customs and Opium  
at Bombay.

Opium Agent.

Clared in full.  
Opium Inspector.

Assistant Commissioner of Customs and Opium at Bombay.  
Memorandum of the Outturn Half-chests of Opium taken from  
Chests brought to the Scales under Pass No.

	No.	Outturn of each Half- chest.	Outturn of each whole Chest.
	1	2	3
Contents of Chests, net weight ...			
Average per one Chest ...			
Allowed to export Chests at 140½ lbs. per Chest ...			
Average contents of Chest let to the Scale ...			
Deficiency made good in No. ...			

DETAIL OF EXPORT.

Number of chest.		Out of	By whom exported.	Date of export.	Imported proof admitted by.
1	2	3	4	5	6



DETAILS OF REMOVALS PRIOR TO EXPORT BY SEA.

Out of	From	To	No. of Chests.	No. and Date of Transport Permit.	Pass No.	of 18 .

PACKAGES OF OPIUM IMPORTED FROM MA'LWA UNDER PASS No.

Marks and Numbers of Packages.		Gross Weight, lbs.	Marks and Numbers of Packages.		Gross Weight, lbs.	Marks and Numbers of Packages.		Gross Weight.
1	2	3	4	5	6	7	8	9

E.—LICENSE FOR RETAIL SALE.

NOTE.—Counterpart of this will be signed by the license-holder and deposited in the Collector's Office.

District  
No. of License in Register  
Name of Retailer  
Locality of shop

*Canceled*

Be it known that A. B., resident of \_\_\_\_\_ taluka \_\_\_\_\_ district of \_\_\_\_\_ is hereby authorized by the Collector [of \_\_\_\_\_ to sell opium by retail at \_\_\_\_\_ in \_\_\_\_\_ from the date of this license to the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, upon the following conditions:—

- I.—That he will pay to Government a monthly duty of \_\_\_\_\_ ;
- II.—That he will sell no opium but such as he may purchase from the Government Depot, or lawfully import under Clause (c), Rule 10; and that he will not receive, or have in his possession, opium obtained otherwise ;
- III.—That he will retail opium only in the shop for which this license is granted ;
- IV.—That, except to a medical practitioner or other person holding a special license from the Collector, he will not sell more than ten tolas' weight of opium to any person at one time ;
- V.—That he will not adulterate the opium sold by him ;
- VI.—That he will not receive any wearing apparel, or other goods, in barter for opium ;
- VII.—That he will not open his shop, or make sales therein, before sunrise; that he will not keep it open, or make sales therein, after 9 o'clock, P.M. ; and that he will not harbour any person therein during the night ;
- VIII.—That he will not permit persons of notoriously bad character to resort to his shop ; that he will prevent gaming and disorderly conduct therein ; and that he will give information to the nearest Magistrate or Police Officer of any suspected persons who may resort to his shop ;
- IX.—That he will have constantly fixed up, at the entrance of his shop, a signboard bearing the following inscription, in legible characters, in the vernacular language:—

(Name of Vendor.)

"Licensed to retail Opium."

X.—That, if he buy less than \_\_\_\_\_, which is the quantity estimated to be retailed at \_\_\_\_\_ in each month, he will, if required, explain as far as possible the reason of the falling off to the Collector ;

XI.—That he will keep up daily an account in this form, showing the receipts and deliveries of opium at his shop each day, and the balance in store:—

Date.	Quantity of Opium in store from yesterday.	Quantity of Opium received this day, and whence received.	Total quantity to be accounted for.	Quantity sold this day.	Quantity left in store.
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XII.—That he will produce, for inspection, on the demand of any Revenue, Excise or Customs Officer above the rank of Jamádár, his license and accounts; and that he will not prevent any Revenue, Police, Excise or Customs Officer, of whatever grade, from entering his shop at any hour of the day or night.

XIII.—This license shall have effect from \_\_\_\_\_ to \_\_\_\_\_ and, unless renewed by the order of the \_\_\_\_\_ by the \_\_\_\_\_ of the \_\_\_\_\_ being the expiration of the period for which it was granted, shall cease to remain in force notwithstanding that a special order recalling it has not been issued by the \_\_\_\_\_.

If such notice be not given, or if this license be not recalled by the Collector under the authority reserved to him in the next succeeding clause, this license, and any counterpart engagement for the due observance of these conditions that the license-holder may have entered into, shall remain in force as if this license and the engagement were formally renewed for a further term of one year, viz., to the \_\_\_\_\_ day of \_\_\_\_\_ 18 \*.

XIV.—This license may be recalled by the Collector—

- (a) for default of punctual payment of the duty stipulated to be paid in Clause I;
- (b) for violation of any of the conditions specified in this license;
- (c) if the holder of this license be convicted of breach of the peace or of any other offence during the currency of this license.

Should the license be recalled for any of the causes above specified, the license-holder will have no right to any compensation whatever, or to any refund of any tax or instalment of tax already paid. But it shall be in the discretion of the Collector to make such compensation or refund should he consider it necessary or advisable to do so.

Should the Collector desire to recall this license before the expiry of the period for which it has been granted for any cause other than those above specified,—(a), (b) and (c),—he shall give 15 days' previous notice and remit a sum equal to the duty for 15 days, or, if notice be not given, shall make such further compensation, in default of notice, as the Commissioner may direct.

XV.—This license may be surrendered by the license-holder on his giving one month's notice to the Collector, and paying such fine not exceeding the amount of the duty for six months, or the loss caused to Government by such surrender, as the Collector may adjudge.

Should the Collector be satisfied that the reason for resigning the license is adequate, he may, with the sanction of the Commissioner, remit the fine.

XVI.—On the infringement of any of the above Articles or of any of the conditions imposed by the Opium Act, 1878, or by the Rules framed thereunder, this license and any other license or licenses that the holder may have obtained for the sale of opium, or for the manufacture or sale of any intoxicating drug prepared from the poppy, will be forfeited; he will also be liable to the punishment prescribed by law for the specific offence committed.

Dated \_\_\_\_\_ 18 \_\_\_\_\_

#### APPENDIX A.

Government Notification No. 2365 of 8th May 1878:—

His Excellency the Governor in Council is pleased to permit the direct importation of opium from Málwa into the Town of Bombay for retail sale in the said town by persons duly licensed there to retail opium 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 exportation by sea, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rule 15 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 shall, on arrival at Bombay, be deposited either in the Government opium godown, or in the licensed shop of the licensed vendor importing the same.

\* Notices in accordance with section 13 of the opium license Form E do not require to be stamped. (G. R. 5538 of 19th October 1880.)

† See Appendix H. following

- (c). Opium deposited in the Government godown 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 in reasonable quantities at a time to his shop as he requires it for use; but he shall not be entitled to have access to the godown except during office hours, nor without special permission from the Collector of Customs oftener than twice a week.
- (d). The quantity of opium to be removed from the Government godown shall on each occasion be presented to the officer in charge of the Opium Department of the Custom House for weighment and registration, and shall be covered by a pass in the Form C, attached to the Rules.

2. Licensed retailers in the Town of Bombay are further permitted to supply themselves with opium by purchase direct from wholesale dealers, provided that such purchase shall be by whole or half chest only; that the permission required by the proviso to section 10 of the Rules be in every case obtained; that the pass-port under which the opium was originally imported be produced before the Collector of Customs and Opium for endorsement and cancellation to the extent of the number of chests or half-chests purchased; and that opium so purchased be forthwith lodged in the licensed vendor's licensed shop, or in the Government godown for issue in the same manner as if it had been imported direct from Malwa by the licensed vendor.

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#### APPENDIX B.

His Excellency the Governor in Council is pleased to rule that the Palanpur-Ahmedabad State Railway be the route by which alone opium from Baroda territory may be imported into the Bombay Presidency for transmission to the scales at Ahmedabad. All opium so imported shall be carried direct to the Government opium agency in the town of Ahmedabad—Government Notification No. 3340 of 29th June 1880.

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#### APPENDIX C.

*Dadar Station* on the G. I. P. Railway has been appointed an examining station for opium booked through for re-exportation—Government Resolution No. 2250, dated 5th April 1882.

*Kalyán Station* on the G. I. P. Railway has been appointed an examining station for opium booked through from Khandwa to Hyderabad and stations on the Nizám's State Railway—Government Notification No. 6004, dated 8th November 1879.

*Ahmednagar* on the Dhond-Manmád State Railway has been appointed an examining station for opium booked through for Madras, Hyderabad and stations south of Ahmednagar—Government Notification No. 6466, dated 3rd December 1879.

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#### APPENDIX D.

The Governor General in Council has reduced by fifty rupees a chest the duty upon opium exported by sea from Bombay.

Accordingly, it is hereby notified that, till further orders, the transit through British India of opium, the export of which from Bombay is allowed, and its export by sea from that port will be subject to the following duty upon each chest weighing net 140½ lbs., avoirdupois weight, namely:—

	Rs.
If weighed at Ajmir ... ..	675
If weighed elsewhere ... ..	650

} *Vide* Notification 4323  
of 5th July 1882.

As soon as is consistent with existing engagements, an excise at the rate of not less than Rs. 700 a chest must be levied upon the consumption of opium in British India and Berar.

The transit through British India, of opium intended for consumption in any Native State, will be permitted only upon satisfactory evidence that an excise at the rate of not less than Rs. 700 a chest is levied upon such consumption.—*Vide* Government Notification No. 2816, dated 15th September 1879.

## APPENDIX E.

Resolution of the Government of India, No. 3639, dated 17th November 1879.

“Read the following telegram, dated 22nd October 1879, from the Agent, Governor General for Central India:—

‘Collector Kistna issues passes unstamped to merchants for large quantity of opium to be imported from Indore. Merchants slip from Málwa with consignments evading scales and will often get away. This system will strengthen smuggling. No pass should be given for Málwa opium except through this office. If any Collector desires opium imported, requisition should be sent to Indore, not made over direct, as pass, by him to merchant.’

RESOLUTION.—Under several local rules and regulations, the import of opium from Málwa for local consumption is permitted under passes granted by Revenue Officers.

2. The Governor General in Council has resolved that no pass shall, in future, be thus granted excepting by the Opium Agent at Indore.

3. 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.

4. Each Local Government concerned will determine and inform the Opium Agent what officers are authorized to move him to issue passes under these orders.”—*Vide* Government Notification No. 6465, dated 3rd December 1879.

Also at Mandisore and Bhopal at each of which places Scales have been established—*Vide* Government Resolution No. 3465, dated 2nd July 1879.

## APPENDIX F.

No. 5214.

## REVENUE DEPARTMENT.

*Bombay Castle, 2nd October 1880.*

Under the provisions of Section 10 (c) of the Rules framed under Sections 5 and 13 of the Opium Act, 1878, and notified in the *Government Gazette Extraordinary* of the 30th March 1878, His Excellency the Governor in Council is pleased to permit the direct importation of opium from Málwa into the districts of Ahmedabad, Kaira and the Panch Maháls for retail sale in the said districts by persons duly licensed in each respective district to retail opium, 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 exportation by sea, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rule 15 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 shall, on arrival, be deposited in the places specified below:—

Opium for Ahmedabad District—In the Stamp Depôt under the Huzár Deputy Collector, Ahmedabad.

Opium for Kaira District—In the Government Treasuries at A'nand, Thásra, Nadiád and Kaira.

Opium for the Panch Maháls—In the Government Treasury at Godhra.

(c).—Opium deposited as aforesaid will remain there at the risk of the importers, who shall be at liberty to keep it in their own boxes and under their own keys and seals, and to remove it to their shops at such times as the Collector may determine; and in such quantities at a time as they may require for use, not being less than the minimum quantity to be fixed by the Collector; they 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 officers in charge of the place for weightment and registration, and shall be covered by a pass in the Form C. attached to the Rules.

2. Persons duly licensed to retail opium in any of the aforesaid three districts are further permitted to supply themselves with opium by purchase direct from wholesale dealers in Bombay, provided that such purchase shall be by whole or half-chest only, that the permission required by the proviso to Section 10 of the Rules be in every case obtained, that the passport under which the opium was originally imported be produced before the

\* See Appendix H following.

Collector of Customs and Opium, Bombay, for endorsement and cancellation to the extent of the number of chests and half-chests purchased, and that the opium so purchased be forthwith transported to its destination and lodged for issue in the same manner as if it had been imported direct from Málwa.

APPENDIX G.

No. 6341.

REVENUE DEPARTMENT.

*Bombay Castle 26th October 1881.*

Under the provisions of Section 10 (c) of the Rules framed under Sections 5 and 13 of the Opium Act, 1878, and notified in the *Bombay Government Gazette Extraordinary* of the 30th March 1878, His Excellency the Governor in Council is pleased to permit the direct importation of opium from Málwa into the districts of Broach and Poona for retail sale in the said districts by persons duly licensed in each respective district to retail opium, 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 exportation by sea, and payment of the duty leviable thereon shall be made in accordance with the provisions of Rule 15 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 shall, on arrival, be deposited in the places specified below:—  
*Opium for Broach District.*—In the Mámlatdár's Treasury at Broach.  
*Opium for Poona District.*—In the Government Treasury at Poona.
- (c)—Opium deposited as aforesaid will remain there at the risk of the importers, who shall be at liberty to keep it in their own boxes and under their own keys and seals, and to remove it to their shops at such times as the Collector may determine, and in such quantities at a time as they may require for use, not being less than the minimum quantity to be fixed by the Collector; they 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.

2. Persons duly licensed to retail opium in any of the aforesaid two districts are further permitted to supply themselves with opium by purchase direct from wholesale dealers in Bombay, provided that such purchase shall be by whole or half-chest only, that the permission required by the proviso to Section 10 of the Rules be in every case obtained, that the passport under which the opium was originally imported be produced before the Collector of Customs and Opium, Bombay, for endorsement and cancellation to the extent of the number of chests and half-chests purchased, and that the opium so purchased be forthwith transported to its destination and lodged for issue in the same manner as if it had been imported direct from Málwa.

APPENDIX H.

With reference to Government Notifications No. 2365 of 8th May 1878, No. 5214 of 2nd October 1880, No. 6341 of 26th October 1881, published at pages 303, 850 and 656 of the *Bombay Government Gazettes* of 1878, 1880, and 1881 respectively, His Excellency the Governor in Council, under the provisions of Section 10 (c) of the Rules framed under the Opium Act, 1878, and notified in the *Bombay Government Gazette Extraordinary* of the 30th March 1878, is pleased to direct that the following condition shall, as soon as is consistent with existing engagements, come into force in lieu of the condition specified as (a) in each of the abovementioned Notifications, namely:—

“(a) All opium so imported shall be subject to the rate of duty notified from time to time under Section 6 of the Opium Act, 1878, to be leviable on opium imported into the Presidency of Bombay for consumption therein, and payment of the duty leviable thereon shall be made in accordance with the provisions of the rules made under Section 5 of the Opium Act, 1878.”

His Excellency the Governor in Council is also pleased to direct that in paragraph 2 of the same Notifications the following words, namely:—

“that the differential duty, if any, leviable on the opium under the proviso to Rule 10 of the Rules made under Section 5 of the Opium Act, 1878, be paid,” shall be inserted after the words “half-chests purchased” and before the words “and that the opium.”

\* See Appendix H below.

PART XIII.

**RULES UNDER THE BOMBAY ABKA RI  
ACT, 1878.\***

*Under Section 12.*

No country liquor exceeding in quantity one gallon or six reputed quart bottles, and no intoxicating drug exceeding in quantity half an Indian seer or 40 tolas, shall be transported or removed from place to place without permit: Provided that this restriction shall not apply to fresh toddy in transport from the place where it is drawn to the place where it is to be licitly disposed of.

*Under Sections 17 and 47.*

No country liquor exceeding in quantity one gallon or six reputed quart bottles, and no intoxicating drug exceeding in quantity half an Indian seer of 40 tolas, shall be sold by retail to one and the same person in the aggregate on any one day, or be possessed by any person without license or permit obtained from a competent authority under the Act.

*Under Section 27.†*

1. The duty leviable on account of a license for the joint privileges of manufacture and retail sale of intoxicating drugs shall be fixed by the Collector, who, before granting any such license, shall put up the said privileges to auction. Bidders at the auction shall be called upon to bid the aggregate amount of duty which they are willing to pay for the privilege of manufacturing and the exclusive privilege of selling intoxicating drugs by retail at one or more shops within the local limits to which the auction extends. The auction should be held subject to confirmation by the Collector, who should not bind himself to accept the highest or any bid, but the amount of the bid, if any, which he accepts, should be divided as nearly as possible into as many equal instalments as there are months in the period for which the said joint privileges are to be disposed of. The conditions of sale and other details for the conduct of the auction should be settled from time to time by the Collectors under the orders of the Commissioner.

2. No duty shall be leviable in respect of the sale of intoxicating drugs by a cultivator or owner of any plant from which such drugs are manufactured or produced, nor in respect of the wholesale sale of intoxicating drugs by merchants or dealers, nor, except as aforesaid, in respect of the manufacture of intoxicating drugs.

\* This Act came into force in the whole of the Presidency of Bombay on the 1st January 1879. (*Bombay Government Gazette* of 8th November 1878.)

† These rules and those under section 30 were made applicable to the whole of the Presidency of Bombay excepting Sind. (G. R. 4421 of 23rd August 1880.)

3. When a permit is granted for the import or export of any intoxicating drug, or for the transport of any such drug between two places not situated within the same district, duty shall be levied on the intoxicating drugs permitted to be so imported, exported, or transported at the following rates, viz. :—

	Rs.
If the amount does not exceed 10 Indian maunds ... ..	5
For every additional 2 Indian maunds or fraction thereof... ..	1

Provided that—

(a) if in the course of one continuous transaction any intoxicating drugs have, after importation or before exportation, to be transported from one place to another within the Presidency of Bombay; or,

(b) if during the course of transporting any such drugs from one place to another within the said Presidency it is necessary to export and afterwards again to import the said drugs;

duty at the above rates shall be leviable once only, notwithstanding that separate permits for import, export and transport are granted.

4. No duty shall be leviable in respect of intoxicating drugs permitted under section 13 to be transported from one place to another situated within the same district.

*Under Section 30.*

1. Licenses, counterpart agreements and permits in respect of intoxicating drugs shall contain the particulars and be granted subject to the restrictions and conditions respectively set forth in the Forms A. to G. hereto annexed.

2. Licenses in Forms A. and B. shall be granted for a period of one year commencing on the 1st August in one year and ending on the 31st July in the next following year; permits in Forms D., E. and G. shall be granted with validity for such periods as the officer granting the same shall in each case deem fit, but not exceeding, ordinarily, double the length of time actually necessary for the purpose for which the permit is granted; and permits in Form F. may be granted for such period not exceeding six months as the officer granting them shall in each case deem fit.

3. No fee shall be charged for any license or permit issued in respect of intoxicating drugs.

*Under Section 59.*

1. Except in the Town and Island of Bombay, it shall be in the discretion of the Magistrate trying the case to grant a reward, not exceeding one-half the proceeds of any fine imposed under the provi-

sions of the Act, to any officer or other person whose conduct in connection with the case may, in the opinion of the said Magistrate, entitle him to reward.

2. In the Town and Island of Bombay, the Collector shall have the same discretion as regards rewards to be granted out of the proceeds of fines under the Act.

3. It shall be in the discretion of the Collector to grant a reward, not exceeding half the proceeds of any confiscation adjudged under the Act, to any officer or other person whose conduct in connection with the case may, in the opinion of the Collector, entitle him to reward.

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*Rules made by the Commissioner of Abkari, under Section 58 of the Abkari Act, 1878, for the disposal of things confiscated under that Act.*

1. Country liquor and intoxicating drugs confiscated in tracts in which monopolies of the retail sale of country liquor and of intoxicating drugs have been severally granted shall be destroyed.

2. Liquor other than country liquor wherever confiscated, as well as country liquor and intoxicating drugs confiscated in tracts in which monopolies of the retail sale of country liquor and of intoxicating drugs have not been severally granted, shall be put up to auction and be sold to the highest bidder, if in the opinion of the officer ordering confiscation the price offered is a reasonable price with reference to the ordinary retail selling price of such liquor or intoxicating drug in the neighbourhood in which the sale takes place. If the price offered is not reasonable, the liquor or intoxicating drugs shall be destroyed.

3. Confiscated mowra flowers shall be sold only to persons licensed to manufacture liquor at prices to be fixed by the officer ordering confiscation. If the prices so fixed cannot be obtained, the mowra flowers shall be destroyed.

4. All articles confiscated other than the articles dealt with in the three preceding Rules, shall be put up to auction and be sold to the highest bidder.

5. All stills and all implements and apparatus for the manufacture of liquor or intoxicating drugs, shall be broken up or otherwise rendered useless for such manufacture previous to sale.

6. Whenever, under the operation of these Rules, liquor, or any other confiscated article, has to be destroyed, it shall be destroyed in the presence of the officer ordering confiscation, or of some other responsible officer whom he may depute.



## FORM A.

*License for the manufacture and retail sale of Intoxicating Drugs.*

Be it known that the Collector of \_\_\_\_\_ hereby confers upon \_\_\_\_\_ of \_\_\_\_\_ the privilege of manufacturing and the sole privilege of selling by retail bháng (or gánja, &c., as the case may be) in the district (or táluca, mahál, &c.,) of \_\_\_\_\_ during the term of one year commencing on the 1st August 188 \_\_\_\_\_, and ending on the 31st July 188 \_\_\_\_\_, both days inclusive, subject to the conditions hereinafter mentioned, that is to say:—

- (1.) That he shall pay monthly in advance on the 1st day of each month, commencing on the 1st August 188 \_\_\_\_\_, on account of duty a sum of Rs. \_\_\_\_\_ into the Government Treasury at \_\_\_\_\_;
- (2.) That all risks of loss from failure of seasons or from any other cause whatsoever shall be borne by him, and he shall make all payments of duty as aforesaid from time to time as they fall due, without any excuse or claim for compensation whatever;
- (3.) That he shall keep a shop (or shops) only at the place (or places) noted in the margin or at such other places as the Collector shall from time to time sanction;
- (4.) That he shall make his own arrangements for obtaining supplies of the intoxicating drugs which he is hereby licensed to sell: provided always that he shall not purchase the same from any person in the Presidency of Bombay who does not hold a license for the sale thereof, and that if he wishes to import or to transport or remove any intoxicating drugs he shall be subject in doing so to all the provisions of the Bombay A'bkári Act, 1878, and of the rules and orders in force thereunder;
- (5.) That any stock of intoxicating drugs which he is hereby licensed to sell which may remain unsold in his hands on the expiration of this license on 31st July 188 \_\_\_\_\_, or if it should be in the meantime recalled, on its being so recalled shall, unless in the former case the licensee obtains a fresh license for the retail vend of bháng (gánja, &c., as the case may be) during the year then next ensuing, be the property of Government and may be taken possession of by the Collector on 1st August 188 \_\_\_\_\_, or immediately upon the recall of the license, as the case may be;
- (6.) That he will sell intoxicating drugs in virtue of this license only at the shop (or shops) hereinbefore specified, and unless with the previous written sanction of the Collector, will keep such drugs only at the said shops;
- (7.) That he shall from time to time submit to the Collector, for his approval, the name, age, and address of any person whom he proposes to employ at his shop (or shops) and shall forthwith dismiss from his service any person so employed on being required so to do by the Collector;
- (8.) That he will not sell to one and the same person on any one day any intoxicating drugs exceeding in the aggregate half an Indian seer, or 40 tolas, unless under the authority and in accordance with the terms of a special order duly made in this behalf under Section 17 of the Bombay A'bkári Act;
- (9.) That he will not receive grain, goods, ornaments, wearing apparel or other property in barter or pawn for intoxicating drugs;
- (10.) That he will not open his shop (or any of his shops) or make sales therein before sunrise, that he will not keep his shop (or any of his shops) open or make sales therein after sunset, and that he will not harbour any person therein during the night;
- (11.) That he will not permit persons of notoriously bad character to resort to his shop (or to any of his shops), that he will prevent gaming and disorderly conduct therein, and that he will give information to the nearest Magistrate or Police Officer of any suspected person who may resort to his shop (or to any of his shops);
- (12.) That he shall have constantly fixed up in a conspicuous part of the front of his shop (or of each of his shops) a sign-board bearing in legible characters in the vernacular language his name and the words "licensed to sell";
- (13.) That he will keep a daily account at his shop (or at each of his shops), showing the quantities and descriptions of the drugs purchased or imported, the price paid for the same, the names of the persons from whom they are bought, the quantities and descriptions of drugs respectively manufactured and sold each day, and in the case of the drugs sold the names of the persons to whom they are sold and the prices charged for them; and will produce the said account for inspection whenever required by the Collector or by any subordinate whom he may depute for that purpose, and will also furnish such returns and information as may from time to time be called for by the Collector;



## FORM C.

*Counterpart agreement to be executed by intending Licensee.*

I, \_\_\_\_\_, in consideration of the Collector of \_\_\_\_\_ granting to me a license under the Bombay Abkari Act, 1878, for the wholesale (or retail) vend (and manufacture) of bháng (or gánja, &c., as the case may be) at \_\_\_\_\_ (or in the district or mahál, &c., of \_\_\_\_\_) for the period of one year commencing on the 1st August 188\_\_\_\_, and ending on the 31st July 188\_\_\_\_, both days inclusive, do hereby agree with the said Collector as follows, viz:—

*(Here enter the various clauses of the License substituting the first for the third person.)*

\*And as security for the due performance by me of the conditions aforesaid, I have this day deposited with the Collector the sum of Rs. \_\_\_\_\_

\* This clause to be added only when a deposit is made. In the event of my making default in any payment due by me under the conditions aforesaid, the said money may be applied by the Collector in liquidation, as far as possible, of the demand against me, the balance only, if any, being returned to me. If I duly perform all the aforesaid conditions the said money is to be returned to me.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 188\_\_\_\_.

(Signed)

Signed by the said \_\_\_\_\_

Licensee

in the presence of \_\_\_\_\_

FORM D.



No.  
Date  
Name of Importer

*Import Permit for Intoxicating Drugs.*

No. *Office of the Collector of*  
*Dated* 188 .

of

is hereby authorized, subject to the conditions  
noted on the reverse, to import at from

Drugs to be imported.  
Description. Quantity.

Description.	Quantity.

Intoxicating Drugs  
of the descriptions  
and quantities spe-  
cified in the margin.

Whence to be imported

Place of import

Duty paid Rs.

Date up to which permit will be in  
force

This Permit, which has been granted on pay-  
ment by the Importer of a duty of Rs.  
will be in force only up to the evening of the

Collector.

Collector.

FORM E.



No.  
Date  
Name of Exporter

*Export Permit for Intoxicating Drugs.*

No. *Office of the Collector of*  
*Dated* 188 .

of

is hereby authorized, subject to the conditions  
noted on the reverse, to export at  
to

Drugs to be exported.  
Description. Quantity

Description.	Quantity.

Intoxicating Drugs  
of the descriptions  
and quantities spe-  
cified in the margin.

Destination

Place of export

Duty paid Rs.

Date up to which permit will be in  
force

This Permit, which has been granted on pay-  
ment by the Exporter of a duty of Rs.  
will be in force only up to the evening of the  
188 .

Collector.

Collector.

*Note.*—This Permit and the drugs imported in virtue thereof must be presented at the time of import for examination to the \_\_\_\_\_ of \_\_\_\_\_

and after import the Permit must be delivered to the \_\_\_\_\_ of \_\_\_\_\_

*(Any other terms which the Collector thinks fit to impose under Section 9 (c) of the Abkari Act should be inserted here.)*

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*Note.*—This Permit and the drugs exported in virtue thereof must be presented at the time of export for examination to the \_\_\_\_\_ of \_\_\_\_\_

and after export the Permit must be delivered to the \_\_\_\_\_ of \_\_\_\_\_

*(Any other terms which the Collector thinks fit to impose under Section 10 (c) of the Abkari Act should be inserted here.)*

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FORM F.

*General Permit for transport or removal of Intoxicating Drugs.*

No.  
Date  
Name of Permit-holder

No.  
Date of  
is hereby permitted, subject to the terms noted on

Description of Drugs.

Route

Period for which permit is granted :

commencing the

Description.	the reverse, to re- move intoxicating drugs of the de- scriptions noted in the margin from to , from time to time as he finds it necessary.*
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Such drugs are to be conveyed by the under-mentioned route, viz. :—

This Permit will be in force for a period of

(Signed)

commencing on the

(Signed)

Collector (or, &c.)

Collector (or other Abkári Officer empowered under Section 13).

\*This will be inserted only if the places between which drugs are to be conveyed are more than 10 miles apart.

FORM G.

*Special Permit for transport or removal of Intoxicating Drugs.*

No.  
Date  
Name of Permit-holder

No.  
Date of  
is hereby permitted, subject to the conditions noted on the reverse, to remove from

Purpose of removal  
Drugs referred to in Permit.  
Description. Quantity.

Description. Quantity.	to for the purpose o
------------------------	-------------------------

Route

Duty (or fee) paid Rs.

Date up to which Permit will be in force

Intoxicating Drugs of the descriptions and quantities noted in the margin\* by the under-mentioned route, viz., Rs. , being the amount of the duty (or fee, as the case may be) payable on account of the permit, have been paid to the undersigned.

This Permit will be in force only till the evening of the

(Signed)

(Signed)

Collector (or, &c.)

Collector (or other Abkári Officer empowered under Section 13).

\* This will be inserted only if the places between which drugs are to be conveyed are more than 10 miles apart.

*Note.*—Whenever any intoxicating drugs are removed under this Permit, the holder thereof must present the same, together\* with a receipt from \_\_\_\_\_ for the duty prescribed by Government under Section 27 of the Bombay Abkari Act, 1878, on the intoxicating drugs removed, to the undermentioned officers *en route* and obtain their signatures to the certificates beneath this :—

Removal of drugs.			Amount of Duty paid.	Signatures in acknowledgment of correctness.		
Date.	Description.	Quantity.		The at	The at	The at

When the period of this Permit expires it must be delivered to \_\_\_\_\_

\* This will be inserted only if duty is payable.

*Note.*— When intoxicating drugs are being removed under this Permit, the holder thereof must present the same to the undermentioned officers *en route* and obtain their signatures to the certificates beneath this, and as soon as the intoxicating drugs have been conveyed to their destination deliver this permit to \_\_\_\_\_

Date.	Signatures in acknowledgment of correctness.					
	The	at	The	at	The	at

## PART XIV.

**EXECUTION OF DEEDS, CONTRACTS, &c.,  
ON BEHALF OF THE SECRETARY OF  
STATE FOR INDIA.**

In exercise of the power conferred by the thirty-third and thirty-fourth of Victoria Chap. fifty-nine, section two, and of all other powers enabling him in this behalf, the Governor General in Council is pleased, in supersession of all previous Resolutions in this behalf relating to the Presidency of Bombay, to declare that the undermentioned classes of the deeds, contracts, and other instruments, referred to in the twenty-second and twenty-third of Victoria Chap. forty-one, section two, may be executed as follows in the territories administered by the Governor of Bombay in Council :—

- |                                                                                                                                                   |   |                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Contracts for the supply of articles of dead stock, or petty supplies.                                                                         | } | By the Government officer for whose use such articles or petty supplies are required, or by any Government officer to whom such officer is subordinate.                                                                                       |
| 2. Contracts for the sale of useless articles.                                                                                                    | } | By the Government officer in whose office such useless articles are, or by any Government officer to whom such officer is subordinate.                                                                                                        |
| 3. Contracts for lease or sale of Government buildings.                                                                                           | } | Jointly by the chief local officer of the Department in whose charge, and the chief local officer of the district in which, such buildings are.                                                                                               |
| 4. Contracts for hire or purchase of buildings for Government.                                                                                    | } | Jointly by the chief local officer of the Department for which, and the chief local officer of the district in which, such buildings are to be hired or purchased.                                                                            |
| 5. Contracts for petty construction and repairs, and for public works of every description which are not executed by the Public Works Department. | } | Jointly by the chief local officer of the Department by which, and the chief local officer of the district in which, such works are to be executed or by an Assistant or Deputy Collector, if the work is executed by the Revenue Department. |
| 6. Sanads—                                                                                                                                        |   |                                                                                                                                                                                                                                               |
| (a) continuing or confirming exemption from payment of land revenue, or                                                                           | } | By Collectors of Districts.                                                                                                                                                                                                                   |
| (b) continuing or confirming any pension or grant of money or land revenue, or                                                                    | } |                                                                                                                                                                                                                                               |
| (c) confirming watan-service-commutation settlements, or                                                                                          | } |                                                                                                                                                                                                                                               |
| (d) guaranteeing cash payments in lieu of <i>abkari</i> or other rights, or                                                                       | } |                                                                                                                                                                                                                                               |



- (e) granted under Bombay Act IV. of 1868, or any other law for the time being in force relating to the survey of towns and cities. } By Collectors of Districts.
7. Deeds, contracts, and instruments relating to land, or to any benefit arising out of land, or to water, or to any benefit arising out of water, or to land revenue. } In the City of Bombay by a Secretary to Government, elsewhere by Collectors of Districts or in any business connected with the duties of the Tálukdári Settlement Officer, by that officer.
8. Contracts for the farm of tolls, taxes, duties, cesses or revenues of any description. } By Collectors of Districts or by the heads of the departments by which such tolls, duties, cesses or revenues are levied.
9. Contracts for the erection or repair of boundary marks. } By survey officers, or revenue officers, not lower in rank than maháلكaria.
10. Contracts for the supply of stationery, &c., to the Superintendent of Stationery. } By the Superintendent of Stationery, Bombay.
11. Contracts for the supply of articles of any description for the use of jails, or regarding the sale of articles manufactured in jails. } By the Inspector General of Jails, Bombay, or by Superintendents of Jails.
12. Contracts for the supply of articles procured in the local markets for the Police. } By the Commissioner of Police in the City of Bombay, and elsewhere by Police Commissioners, or by District Superintendents of Police.
13. Contracts connected with the management of the Botanical Gardens at Ganesh Khind. } By the Superintendent.
14. Deeds, contracts, and instruments relating to Government forests or to forest produce, or to the business of the Forest Department, or to any land, buildings or other property in the control of that Department other than contracts of the nature specified above in articles 1 to 5. } By Conservators of Forests.
15. Deeds, contracts, and instruments relating to salt revenue or to the business of the Salt Department, or to the land, buildings or other property in the control of that Department, other than contracts of the nature specified above in articles 1 to 5. } In Sind, by the Commissioner in Sind, or by the head of the Salt Department in that Province, or by Collectors of Districts, and elsewhere by a Secretary to Government, or by the Collector of Salt Revenue, Bombay.
16. Contracts entered into with normal scholars and apprentices in Engineering or Industrial Colleges, &c. } By Educational Inspectors or by the Principals of such Colleges.
17. Contracts for public works executed by the Public Works Department. } By Executive Engineers of Divisions subject to the conditions prescribed by the Public Works Department.

18. Contracts relating to the Indian Troop Service. } By the Resident Transport Officer, Bombay.

19. Contracts for the supply of articles procured in the local markets for the Ordnance Department. } By Commissaries of Ordnance, Deputy Commissaries of Ordnance, Deputy Assistant Commissaries of Ordnance and Superintendents of Factories.

20. Contracts relating to the business of the Commissariat Department. } By Executive Commissariat Officers.

21. Contracts for the supply of articles procured in the local markets for hospitals, lunatic asylums, &c. } By the local Medical Officers in charge of such hospitals, asylums, &c.

22. Deeds, contracts, and instruments relating to the Administration of Aden. } The Political Resident, Aden.

23. Deeds, contracts, and instruments not included in any of the foregoing articles. } In Sind, by the Commissioner in Sind, and elsewhere by a Secretary to Government.

Nothing herein contained shall be deemed to affect any enactment for the time being in force which expressly prescribes by whom any such deed, contract, or other instrument as is herein mentioned, shall be executed.

## APPENDIX A.

No. 607.

REVENUE DEPARTMENT.

*Bombay Castle, 4th February 1879.*

The following Resolution by the Government of India is republished :—

"GOVERNMENT OF INDIA.—HOME DEPARTMENT.

*Execution of Deeds, Contracts, &c., on behalf of the Secretary of State by Officers of the Forest Department.*

Extract from the proceedings of the Government of India in the Home Department, Judicial,—No. 23—1411, under date Simla, the 15th October 1878.

Read again the following Resolutions on the subject of the execution of deeds, contracts, &amp;c., on behalf of the Secretary of State :—

Home Department Resolution No. 989, dated the 23rd June 1877.

" " " No. 684, dated the 31st May 1878.

" " " No. 991, dated the 3rd August 1878.

Read also the following letters relating to the execution of deeds, contracts, &amp;c., by Forest Officers :—

From Government of Madras, No. 343, dated the 4th March 1878.

" " of Bombay, No. 2313, dated the 4th May 1878.

" " of Bengal, No. 397 T, dated the 10th May 1878.

" " of N. W. P. and Oudh, No. 110A, dated the 28th May 1878.

" " of Punjab, No. 449 C, dated the 3rd August 1878.

" Chief Commissioner of Central Provinces, No. 1928, dated the 2nd August 1878.

" " of British Burma, No. 297, dated the 29th March 1878.

" " of Mysore, No. 522, dated the 20th May 1878.

" " of Assam, No. 760, dated the 14th March 1878.

" " of Ajmere, No. 1141 S, dated the 23rd May 1878.

" Resident at Hyderabad, No. 5 B, dated the 29th April 1878.

## RESOLUTION.

In exercise of the power conferred by the thirty-third and thirty-fourth of Victoria, cap. fifty-nine, section two, the Governor General in Council is pleased to declare that the undermentioned classes of the deeds, contracts, and other instruments, referred to in the twenty-second and twenty-third of Victoria, cap. forty-one, section two, may be executed as follows :—

Contracts and other instruments in matters connected with the administration of forest and with the business of the Forest Department generally.	{	By Conservators, Deputy, Assistant and Sub-Assistant Conservators of Forests to such extent, and within such limits, as the Local Government may prescribe by Notification in the Official Gazette.
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ORDER.—Ordered, that this Resolution be communicated to the Local Governments and Administrations noted above, and to the Department of Revenue, Agriculture and Commerce, for information and for the issue of any further orders which may be necessary.

Ordered, also, that this Resolution, together with the Statutes referred to in it, be published in the Supplement to the *Gazette of India*.

## 33 &amp; 34 VICTORIA, CAP. 59.

An Act to render valid certain contracts informally executed in India.

[9th August 1870.]

WHEREAS by an Act passed in the twenty-second and twenty-third years of the reign of Her present Majesty, amending an Act passed in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled "An Act for the better government of India," it was provided that any deed, contract, or other instrument made by the authorities therein named, for the purpose of disposing of real and personal estate in India vested in Her Majesty under the said last-mentioned Act, or of raising money on such real estate by way of mortgage, or of making proper assurance for that purpose, or of purchasing and acquiring any lands and hereditaments, or any interest therein, stores, goods, chattels, and other property in India, and of entering into any contracts whatsoever for the purposes of the said first-mentioned Act, may be expressed to be executed as on behalf of the Secretary of State for India in Council, by or by order of the Governor General in Council, or the Governor of Fort St. George or of Bombay in Council :

And whereas by an Act passed in the thirty-second and thirty-third years of Her said Majesty, it was recited that certain deeds had been issued for inám lands in the Presidency of Fort Saint George by the Inám Commissioner in the execution of his office in that respect, which, by reason of certain defects in the expression of the execution thereof, it was apprehended might be invalid; and provision was thereupon made by the said last-mentioned Act that the said title-deeds should not be deemed invalid by reason of such defects :

And whereas it is apprehended that other deeds, contracts, and instruments made for the purpose expressed in the said first-recited Act, besides such title-deeds as aforesaid, may be invalid or deemed invalid for the like reason, and such provision as aforesaid should therefore be made more general :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

1. Every deed, contract, or other instrument made in India for the purposes and by the authorities expressed in the said first-recited Act up to the date of the passing of this Act, and for any further period within the limit of one year to which the Governor General in Council may deem it advisable to extend the operation of this Act, which is expressed to be executed by or by order of or on behalf of the Governor General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council, or by any Lieutenant-Governor or Chief Commissioner, or any other officer for the time being entrusted with the government, charge, or care of any presidency, province or district of British India within the limits of their respective governments, provinces, or districts, and every deed, contract, or other instrument so executed in British India by any person authorised in this behalf by the Secretary of State for India in Council, shall be, and be deemed to have been as valid as if it had been executed in conformity with the provisions of the said first-recited Act ; provided that such deed, contract, or other instrument has been in other respects duly executed according to the law in force at the date of its execution.

2. It shall be lawful for the Governor General, by Resolution in Council, from time to time to vary the form of the execution prescribed by the said first-recited Act for the deeds, contracts, and other instruments to which it relates, and to empower such authorities as to him may seem expedient to vary it within the respective limits of their local jurisdiction ; and deeds, contracts, and other instruments executed according to forms so altered shall have in all respects the like validity as if they had been executed according to the provisions of the said first-recited Act.

[22° AND 23° VICT.]

[CH. 41.]

*Government of India Act Amendment.*

## CHAP. 41.

An Act to amend the Act for the better Government of India.

[13th August 1859.]

WHEREAS an Act was passed in the Session holden in the Twenty-first and Twenty-second Years of the Reign of Her present Majesty, intituled *An Act for the better Government of India* : And whereas it has been considered that, under the Enactment in the Fortieth Section of the said Act, the local Governments in *India* and Officers intrusted with the Charge of Provinces or Districts there respectively cannot enter into and execute such Contracts and Assurances in *India* on behalf of the Secretary of State in Council as before the Commencement of the said Act they were respectively competent to enter into and execute on behalf of the *East India* Company, and it is expedient to give them such Powers : And whereas Doubts have arisen as to the proper Mode of the Execution of Contracts entered into by the Secretary of State in Council pursuant to the Provisions of the said Fortieth Section of the said Act, and it is expedient that such Doubts should be removed : And whereas it is expedient to alter so much of the Enactment in the Forty-third Section of the said Act as relates to the Mode of signing and countersigning the Drafts or Orders therein mentioned : Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; that is to say,

I. The Governor General of *India* in Council, the Governor in Council of *Fort St. George*, the Governor in Council of *Bombay*, the Lieutenant-Governor of the North-Western Provinces now under the Presidency of *Fort William* in *Bengal*, respectively, or any Officer for the Time being intrusted with the Government, Charge or Care of any Presidency, Province, or District in *India*, subject to such Provisions or Restrictions as the Secretary of State in Council, with the Concurrence of a Majority of Votes at a Meeting, shall from Time to Time prescribe, are hereby respectively empowered to sell and dispose of all Real and Personal Estate whatsoever in *India* for the Time being vested in Her Majesty under the said Act, within the Limits of their respective Governments, Provinces, or Districts, or to raise Money on any such Real Estate by way of Mortgage and to make proper Assurances for that Purpose, and to purchase and acquire any Land or Hereditaments, or any Interest therein, Stores, Goods, Chattels, and other Property in *India*, within the said respective Limits, and to enter into any Contracts whatsoever, within the said respective Limits for the Purposes of the said Act, and all Property so acquired shall vest in Her Majesty for the Service of the Government of *India*.

II. The Secretary of State in Council may be named as a party to any such Deed, Contract, or other Instrument, and it shall be sufficient to use the Designation of Secretary of State in Council in such Deed, Contract, or other Instrument, and the same may be expressed to be executed on behalf of the Secretary of State in Council, by or by Order of the Governor General in Council, Governor in Council, Lieutenant-Governor of the North-Western Provinces, or other Officer intrusted as aforesaid, but may be executed in other respects in like Manner as other Instruments executed by or on behalf of him or them respectively in his or their official Capacity, and may be enforced by or against the Secretary of State in Council for the Time being; and neither the Secretary of State, nor any Member of the Council, nor any Person executing such Deed, Contract, or other Instrument, shall be personally liable in respect thereof; and all Liabilities, Costs, and Damages in respect thereof shall be satisfied and paid out of the Revenues of India.

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APPENDIX B.

No. 608.

REVENUE DEPARTMENT.

*Bombay Castle, 4th February 1879.*

With reference to the Resolution of His Excellency the Governor General in Council, No. 23-1411, dated 15th October 1878, republished by the preceding Notification No. 607 of to-day's date, His Excellency the Governor in Council is pleased to notify that contracts and other instruments in matters connected with the administration of forests and with the business of the Forest Department in the Bombay Presidency generally may be executed within the limits of their respective charges, by—

- (1) Conservators, whatever be the amount or value of the subject-matter of the contract or other instrument;
- (2) Deputy Conservators, if such amount or value do not exceed Rs. 5,000;
- (3) Assistant Conservators, if such amount or value do not exceed Rs. 1,000;
- (4) Sub-Assistant Conservators, if such amount or value do not exceed Rs. 200:

Provided always that no Forest Officer of any grade below that of Conservator shall execute any contract or other instrument without, or otherwise than in accordance with, the previous sanction of the Conservator to whom he is subordinate, given either expressly or generally in connection with the sanctioned working plan of a season, and that every contract or other instrument executed by any such officer shall be drawn in a form which has been approved by the said Conservator.

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PART XV.

RULES UNDER THE CIVIL PROCEDURE  
CODE, 1877.

*Under Section 320.\**

1. If the Court shall be satisfied that the decree is one to which this notification applies, it shall cause a copy thereof to be forwarded to the Collector by post, or in such other manner as shall be most convenient.

2. Along with the said copy the Court shall send—

(a) A copy of the judgment, if any, of the Court, which passed the decree;

(b) If the decree is that of an Appellate Court, a copy of the judgment of the Court which tried the suit originally, and, when there has been a special or second appeal, of the judgment of the first Appellate Court;

(c) A statement showing the extent, if any, to which the decree has been already executed, and clearly setting forth what portion of the decree still remains to be satisfied;

(d) A copy of the application for execution of the decree, and of the order, if any, made thereon for sale.

3. The aforesaid documents shall be prepared and transmitted to the Collector, free of all cost to the parties; the copies, &c., being prepared by the Court's establishment.

4. On receipt of the decree and of the other documents mentioned in Rule 2, the Collector may either proceed to execute it himself, or may refer it for execution, subject to his supervision and control, to any of his subordinates not lower in rank than a Mahalkari.

5. The Collector, or the officer to whom the Collector so refers the decree shall, without delay, appoint a day for hearing any representations which the parties or any of them may desire to make, as to the manner in which the decree should be executed, and shall cause a written notice to be served on each of the parties to the decree of the day so fixed, and shall also require the judgment-debtor to produce all title-deeds and other documents affecting the property in question which may be in his possession or power; and shall, after such enquiry as he considers necessary, proceed according to the methods prescribed by sections 321 to 325 C. of the Civil Procedure Code, as may be appropriate to the nature of the case.

6. The Collector or other officer aforesaid may, from time to time, by similar written notices, require the attendance of the parties to the decree, or any of them, for the purpose of ascertaining their wishes, or of obtaining any information which he may con-

\*The notification of Government made under section 320 is not applicable to the Courts of Jágbirdárs who have power under Regulation XIII of 1830 to execute their own decrees. (*Vide* notification at page 557, *Bombay Government Gazette*, 1882.)

sider necessary to enable him to provide satisfactorily for the execution of the decree; and if any party does not attend, in pursuance of any such notice, the Collector or other officer aforesaid shall decide the matter in his absence, and he shall not afterwards be entitled to be heard with respect thereto.

7. Every such notice, and every notice which the Collector shall issue under section 324 of the Code of Civil Procedure to the judgment-debtor or his representative, may be served in the manner in which notices issued by the Collector in his capacity as such are usually served, or by forwarding the same to the Court to be served upon the pleader, if any, of the party to whom such notice is addressed.

8. All orders which the Collector or other officer aforesaid shall pass in respect of the execution of the decree, or of the management or sale of the immoveable property of the judgment-debtor, shall be made in writing, and shall be dated and signed by him; and a diary of his proceedings shall be kept in the language of the district, in the Form B. at page 148 of the Circulars of the High Court of Bombay.

9. Previous to proceeding to sell any property, the Collector or other officer aforesaid shall, unless he has already proceeded under section 322A. or 322C., publish a notice in the language of the district, calling upon all persons having rights in, or charges or claims on, the said property, or any part thereof, to submit on or before a date which shall be named in such notice, and which shall not be less than six weeks after the date of such notice, a statement of the right, charge or interest claimed, and to produce the documents, if any, on which such claims are based.

Such notice shall be published in the manner prescribed for the notice to be issued by the Collector under section 322A. of the Code of Civil Procedure.

10. If, in the opinion of the Collector or other officer aforesaid, any statement so produced is not sufficiently precise or clear, or if it shall appear to the Collector or such other officer that all the documents in the claimant's possession or power relating to the property to be sold have not been produced, he may refuse to receive such statement, and may give or may not give, as he deems fit, time for the production of a fresh statement.

The Collector or other officer aforesaid shall peruse the documents of title which any such claimant produces; but such documents shall not, without a special order, the reasons for which must be recorded, be handed for perusal to any other person than the Collector or other officer aforesaid, and his clerk, reader or interpreter; and they shall, after such perusal, be restored to the persons who have produced them with an endorsement signed by the Collector or other officer aforesaid on each, of the date on which and the purpose for which they were presented, and of the date of return and of the person to whom they are returned.

11. Every sale of property by the Collector or other officer aforesaid shall, except as is otherwise

provided by the Code of Civil Procedure, be proclaimed\* and held in the manner prescribed by the rules for the time being in force relating to the sale of immoveable property in realization of arrears of land revenue.

Every proclamation of any such sale shall contain, in addition to the particulars required by the said rules:—

(a) A list of all claims of which statements have been drawn up under section 322B. or section 322C., or have been duly submitted and accepted by the Collector or other officer aforesaid under No. 10 of these Rules, and which shall appear to the Collector or such other officer to be *prima facie* honest and reasonable.

(b) A caution that no guarantee is given either of the judgment-debtor's title or of the validity of any of the rights, charges or interest claimed by third parties.

12. The Collector or other officer aforesaid shall retain the title-deeds and other documents produced by the judgment-debtor under Rule 5; and, if the whole of the property to which they relate is sold, shall hand them over to the purchaser.

13. When any sale has been finally completed the Collector or other officer aforesaid shall give to the purchaser a certificate of sale, as nearly as may be, in the Form No. 150 of Schedule IV. of the Code of Civil Procedure.

14. When the property sold is in the occupancy of the judgment-debtor, or of any other person, and a certificate in respect thereof has been granted under the last preceding Rule, the Collector or other officer aforesaid shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property; by proclaiming to the occupant by beat of drum, or in such other manner as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser; and, if need be, by removing any person who refuses to vacate the same.

15. When execution of the decree has been, as far as possible, completed, and the balance, if any, of all monies which have come to his hands, disposed of in accordance with the provisions of section 324A. of the Code of Civil Procedure, the Collector shall re-transmit the papers received by him under Rules 1 and 2, together with the execution proceedings, to the Court by post, or in such other manner as shall be most convenient.

#### *Additional Orders.*

1. As the law stands, no fees for the service and execution of processes, issued by the Collector in the exercise of powers under section 320 of the Civil Procedure Code, are leviable. (G. R. 1619, J. D., of 11th March 1881.)

\* The form of proclamation is given in the Appendix to this Part.



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## APPENDIX.

## FORM OF PROCLAMATION.

(Under Rule 11.)

Whereas the property of \_\_\_\_\_, hereinunder specified, has been attached on account of a decree obtained in original suit No. \_\_\_\_\_ of 18 \_\_\_\_\_, in the Court of \_\_\_\_\_, at \_\_\_\_\_ plaintiff, \_\_\_\_\_ defendant, in virtue whereof a sum of \_\_\_\_\_ was adjudged to be payable by the said \_\_\_\_\_ to the plaintiff;

and whereas it is necessary to recover the said amount by sale of the said property together with all lawful charges and expenses resulting from the said attachment and sale:

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ at \_\_\_\_\_ o'clock A.M., A. B., the Mámlatdár of \_\_\_\_\_ (or other person appointed) will, at \_\_\_\_\_ in \_\_\_\_\_ Táluka in this District, sell by auction to the highest bidder and without reserve, the right, title and interest of the said \_\_\_\_\_ in the property hereinunder specified, and every power of disposing of the same or any of them or of the profits arising therefrom which the said \_\_\_\_\_ may now consistently with the law exercise for his own benefit.

*Immoveable Property.*

1	2	3	4	5	6	7	8	9
Lot Number.	Description of Lot, including local situation, supposed or estimated rent or annual value, and, if leased, for how long, on what terms, and to whom.	Survey number, Municipal number and other fiscal designation.	Government Revenue, including any Local Cess, any other known fiscal charge resting on the Lot.	Present occupant.	(Here enter any other particular the Collector may see fit.)			Here enter the additional particulars required in Rule 11 (a).

*N. B.*—No guarantee is given of the title of the said interest claimed by third parties.

or of the validity of any of the rights, charges or

Collector.

PART XVI.

(1) RULES REGARDING THE REMUNERATION AND DUTIES OF THE LAW OFFICERS OF GOVERNMENT ISSUED IN SUPERSESSION OF ALL EXISTING RULES AND ORDERS ON THE SAME SUBJECT.\*

I.—*The Advocate General.*

1. The salary of the Advocate General is Rs. 2,000 per month, in addition to an office allowance of Rs. 400 per month.  
Salary.
2. The Advocate General is the chief legal adviser of Government. He is bound to give his opinion in any matter the Government may think fit to consult him upon.  
Duties as adviser of Government.
3. The Commander-in-Chief, the Judge Advocate General of the Army, and, subject to the provisions of Rule 16, all Heads of Departments at the Presidency, whether such departments are under the Supreme or Local Government, have also the right to require the Advocate General's opinion in any matter they may think it necessary to refer to him.  
And as adviser of the Chief Officers of Government.
4. It is the duty of the Advocate General to advise the Legal Remembrancer, whenever the latter deems it necessary, in any case or matter affecting the interests of Government, to consult him.  
May be consulted by the Legal Remembrancer.
5. It is the duty of the Advocate General to undertake any legal business within the range of an advocate's functions which Government may desire him to undertake in Bombay, and to represent Government in all actions and civil proceedings on the Original Side of the High Court.  
Duties as Advocate.
6. It is the duty of the Advocate General—
  - (a) to appear on the Original Side of the High Court in every suit or other civil matter in which Government require his services, whenever the nominal party in whose behalf he is called on to appear may be (but he will not appear, without the requisition of Government, for any person except the Secretary of State for India in Council);  
May be required to appear on behalf of Government Officers and others on the Original Side of the High Court;

\* The Rules under this part are not applicable to the Province of Sind, see Government Resolution No. 6451 of 9th November 1878, Judicial Department.

(b) to appear, if required by Government, on their behalf in any original case, civil or criminal, which the High Court transfers from any other Court in the Presidency for trial before itself.

And in cases transferred for trial to the High Court.

7. In any case in which it is proposed to require the services of the Advocate General on behalf of some third person not directly identified in interest with Government, Government will determine whether the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf, and when it has been so determined, it is the duty of the Advocate General to afford his services as he would, if Government were directly a party to the case.

8. It is the duty of the Advocate General to prosecute as leading counsel in all original criminal cases tried before the High Court, in which Government direct that their law officers shall prosecute.

9. In ordinary original criminal cases tried before the High Court the Advocate General will exercise his discretion and prosecute as leading counsel, whenever he deems it desirable in the interests of the public, that he should do so.

10. The Advocate General has also to discharge, as occasion arises, the various duties imposed upon him by specific enactments of the English and Indian Legislatures.

## II.—The Solicitor to Government.

11. The salary of the Solicitor to Government is Rs. 2,000 per month.

12. The Solicitor to Government is bound to discharge all the ordinary duties of an Attorney and Solicitor to Government and to those officers of Government who are entitled to consult the Advocate General.

13. It is his duty to conduct all such conveyancing business and to draft all such instruments and other legal documents as the Supreme or Local Government, or any authorized Government officer, may require.

14. The Legal Remembrancer is entitled to the assistance of the Solicitor to Government in all matters in which the special knowledge of a solicitor may be of advantage.

Legal Remembrancer entitled to his assistance.

Conveyancing and drafting to be done by him.

Statutory duties.

In ordinary criminal cases exercises his discretion.

Prosecutes in criminal cases before the High Court when required by Government;

Requisition for his services in cases to which Government is not a party to be made by Government.

15. It is the duty of the Solicitor to Government to retain counsel in criminal cases which are prosecuted by the Law Officers of Government, obtaining copies of the documents from the Public Prosecutor, and also to instruct Government Counsel generally in all cases except those in which the performance of this duty is otherwise provided for, or in which Government or the officers entitled to consult the Advocate General instruct him direct; and his duties are in every respect co-extensive with those of the Advocate General, so far as the business of an attorney and solicitor is concerned.

16. Save in cases of emergency, references for the opinion or advice of the Advocate General must be made through the Solicitor to Government. Similar references may be made by Government and the officers entitled to consult the Advocate General for the opinion or advice of the Solicitor to Government himself; and in every case it is the duty of the officer making the reference to state whether the opinion or advice of the Advocate General, or of the Solicitor to Government, is required; but in any case in which his own opinion may be asked, and which, on perusal, he may consider to be of special difficulty or importance, the Solicitor to Government should obtain and forward the opinion of the Advocate General.

17. The officers of Government requiring legal advice from either the Advocate General or the Solicitor to Government are responsible for placing before the Solicitor to Government all, and not more than all, the documents necessary for the proper consideration of the point on which an opinion or advice is required, and also for stating, as precisely as possible, the point on which the advice or opinion is required; but if the Solicitor to Government, in any case submitted either for his own advice or opinion, or for that of the Advocate General, finds that the real point has been missed, or incorrectly stated, or that the facts stated do not afford sufficient material for forming an opinion, it is his duty to return the case for re-submission in proper form, at the same time pointing out in what respect the reference is deficient.

18. The Solicitor to Government is also *ex-officio* Public Prosecutor for Bombay, and in that capacity receives a salary of Rs. 500 per month, in addition to his salary as Solicitor.

19. The duties of the Public Prosecutor for Bombay are—

- (1) to prepare and watch prosecutions in trials before the High Court, to draw the briefs, and to take care that the necessary witnesses are in attendance;

(2) to communicate with, and advise Magistrates, whether in Bombay or in the mofussil, in respect to cases committed, or to be committed, for trial in the High Court;

(3) to conduct prosecutions, under the provisions of the Criminal Procedure Code, before the High Court, subject to the Advocate General, or other counsel who appears at the time of trial;

(4) to retain counsel for the prosecution at his discretion, in any case committed for trial before the High Court, in which copy of the record is forwarded to him by the Clerk of the Crown;

(5) to originate or assume such prosecutions as he may be directed to originate by Government, or by any Judge, or Magistrate, or such as, by reason of there being no private person, or public body, on whom the duty of originating them should more properly fall, or on any other account, he shall, in his discretion, consider should be originated by him in his public capacity;

(6) to bring to the notice of Government any special circumstances connected with any trial which seem to him to require the attention of Government.

### III.—Remembrancer of Legal Affairs.

20. The salary of the Remembrancer of Legal Affairs is Rs. 2,000 per month, rising by annual increments of Rs. 100 to Rs. 2,500. He is entitled besides to travelling allowance at the usual rates when required to travel, and may, with the sanction of Government, employ such establishment as he thinks necessary, at a cost not exceeding Rs. 200 per month.\*

21. It is the duty of the Remembrancer of Legal Affairs to superintend and advise on the conduct of all litigation arising originally in the Mofussil in which the Government or Government officers are concerned or interested, in accordance with the rules prescribed in this behalf.

22. All the Government Pleaders throughout the Presidency, including the Government Pleader in the High Court, and all Public Prosecutors except the Public Prosecutor for Bombay are under his direct control and supervision, and all communications concerning the law business, or the Subordinate Law Officers of Government in the mofussil, are to be made to Government through him.

\* His head-quarters are Poona until Government otherwise direct. (G. R. 3274, dated 5th June 1879, J. D.)

23. The Remembrancer of Legal Affairs is appointed under Section 492 of the Criminal Procedure Code *ex-officio* Public Prosecutor for the Presidency of Bombay except Sind and the city of Bombay. He will appear personally only in such cases as he deems it desirable that he should himself prosecute, or as the Government from time to time direct him to prosecute.

24. It shall be the duty of the Public Prosecutor for the Presidency to prosecute in any criminal case before the High Court in which that Court on its Appellate Side may think it expedient to require an appearance to be made on behalf of the Crown. In any such case, the Public Prosecutor may, at his discretion, appear by the Government Pleader. If he thinks the case a fit one for the employment of special counsel he will report it to Government for orders, or in emergent cases may act in anticipation of such orders.

25. Except as is otherwise provided in Rules 15 and 19, the employment of special counsel, when necessary, and settle their fees, on behalf of Government in any case, whether civil or criminal, which arises originally in the Mofussil, and the settlement of their fees, is also a part of the duties of the Remembrancer of Legal Affairs; and subject to the orders of Government, he is to exercise a control over all expenditure incurred on account of law charges, in connection with both civil and criminal cases in, or arising in, the Mofussil.

26. Government Pleaders, or local officers, who desire to engage special counsel for any case should communicate with the Remembrancer of Legal Affairs *before* doing so, informing him, in criminal cases of the nature of the case, and of the evidence to be brought forward, and stating, in every case, when and where the hearing of trial will take place, how long it is likely to last, and what pleader or other counsel they wish to employ, and at what rate they propose to remunerate him. If there is not time for this communication to be made before the date fixed, or likely to be fixed, for the hearing or trial of the case, the Court or Magistrate should be asked to adjourn it or to fix the date in the first instance at a sufficient distance of time to enable the officer concerned to obtain sanction for the employment of special counsel. The Remembrancer of Legal Affairs, if he thinks the case a fit one for the employment of special counsel, will submit the application for the orders of Government, but in emergent cases may act in anticipation of such orders.

27. The Remembrancer of Legal Affairs is bound to advise Government on all legal questions in connection with the administration of public affairs, or arising out of the acts of Government officers or public servants in the Mofussil which may be referred to him by Government. This duty

extends to Government business of all kinds, and in all departments, whether under the Supreme or Local Government.

28. Rule 17, which applies to references for the advice or opinion of the Solicitor to Government, or of the Advocate General, is to be held applicable, as far as may be, to all such references to the Remembrancer of Legal Affairs; but the Remembrancer of Legal Affairs will, in this as in all other branches of his duties, himself ordinarily perform all the usual work of a solicitor.

29. Heads of Departments in the Mofussil may make direct references to the Remembrancer of Legal Affairs for advice or opinion only in respect of suits or other civil proceedings which are actually pending, and in which Government is concerned or interested, and of criminal proceedings which are actually pending. References on general questions, or in regard to proceedings other than the above, should be submitted to Government, who will call for the Remembrancer of Legal Affairs' report, or not, as they deem fit. In the case of reference to the High Court under the Stamp Act, the Remembrancer of Legal Affairs will ordinarily decide whether or not the Government Pleader in the High Court need appear on behalf of Government. Whenever he has any doubt; he should take the special orders of Government.

30. Municipalities must, as a general rule, be left to defend the legality of their own proceedings, and are not entitled to the advice of the Government Law Officers.

But in cases of special importance, or difficulty, a reference may be made to Government to obtain the opinion or advice of the Remembrancer of Legal Affairs for the guidance of Municipalities in their proceedings, or in the defence of actions which have been brought against them, or with which they are threatened.

31. It is also the duty of the Remembrancer of Legal Affairs to advise Government, in accordance with the rules\* prescribed in this behalf in Government Resolution No. 6889, dated 17th November 1876, Judicial Department, in the matter of all proposals to appeal, under Section 417 of the Criminal Procedure Code, against the acquittal of accused persons.

\* The following are the rules referred to:—

I. Every proposal to appeal under Section 417 of the Criminal Procedure Code must be forwarded by the officer making it to the Head of his Department, who, if he concurs in it, shall submit it with his own opinion to Government, through the Legal Remembrancer.

II. The Legal Remembrancer, after calling for all information or papers that he may deem necessary to enable him to arrive at a correct opinion, shall forward the correspondence to Government, together with a report, stating his opinion, and, if he advises an appeal being made, the principal grounds on which he suggests its being based.

32. It is also the duty of the Remembrancer of Legal Affairs to draw Bills embodying such proposals for legislation as may be sent to him for the purpose from any of the Executive Departments of Government.

33. Bills so drawn will in the first instance be regarded merely as drafts intended to facilitate the further discussion of the proposed measure in the Executive Department of Government for which they have been prepared, or with such persons as that department may think it desirable to consult.

34. If it should ultimately be determined to proceed to legislation, the draft prepared by the Remembrancer of Legal Affairs will be returned to him; and it will be his duty to revise the draft, embodying in it all the provisions held to be necessary or desirable, and to finally mould the Bill in the shape in which it should be introduced into the Legislative Council, adding to it the usual Statement of Objects and Reasons. He will then cause the Bill to be printed under his supervision, and submit it to the department for which it has been prepared.

35. The Remembrancer of Legal Affairs is bound also to bring to the notice of Government from time to time all new enactments which require the issue by Government of rules, orders, bye-laws, or notifications, or which involve any change in any existing rules, orders,

III. If Government sanction the appeal copies of the correspondence and of the Legal Remembrancer's report will be forwarded direct to the Government Pleader in the High Court from the Secretariat, with a copy of the Government Resolution empowering him to file the appeal.

IV. The appeal will then be drawn up by the Government Pleader in accordance with the orders of the Court, and after consultation with the special counsel, if any, whom Government authorize him to retain for the case.

V. Neither the grounds of appeal nor the arguments in support of the appeal at the hearing need be limited to those stated in the Legal Remembrancer's opinion. The Government Pleader or other counsel will be at liberty to exercise his own discretion as to the manner in which the appeal should be conducted, subject only to any special reservations which may be made in the Government Resolution sanctioning the appeal.

VI. As soon as Government have sanctioned the institution of an appeal it will be the duty of the Legal Remembrancer and of the local officer who proposed the appeal to forward to the Government Pleader direct without delay all the material papers in their possession relating to the case.

VII. As soon as the appeal has been decided the Government Pleader will inform the Legal Remembrancer of the result. If a written judgment is recorded by the Court he will obtain with as little delay as possible two copies of it, and forward one to the Legal Remembrancer and one with the papers to the officer who proposed the appeal.

VIII. The result of the appeal will be specially reported to Government by the Legal Remembrancer only in such cases as appear to him to be important. As a general rule it will suffice if the different cases and their results are mentioned in his annual report to Government. The officer who proposed the appeal need not communicate its result to Government.



bye-laws, or notifications, and on receipt of the necessary instructions, to draft all such rules, orders, bye-laws, or notifications as it may be necessary to issue, for the approval of Government. And all rules, orders, bye-laws, or notifications which it is at any time proposed to issue in the name of the Governor in Council in virtue of any power derived from any legislative enactment, should be forwarded to the Remembrancer of Legal Affairs in order that he may revise the same before they are issued with a view to legal precision and correctness.

36. The Remembrancer of Legal Affairs is to submit an annual report for the calendar year to Government, detailing the general results of the civil litigation in the mofussil in which Government or Government Officers were concerned, and of the criminal prosecutions, if any, in which special measures may have been taken on behalf of Government to secure conviction, and bringing to the notice of Government all such other matters of interest in connection with their legal affairs as he may think necessary. To enable him to prepare this report the Remembrancer of Legal Affairs may call upon local officers of every department to furnish him with such information as he deems necessary.

*Government Pleaders and Public Prosecutors.*

37. The term "Government Pleader" includes—

- (1) the Government Pleader in the High Court;
- (2) District Government Pleaders; and
- (3) Subordinate Government Pleaders (of whom one will be nominated for every Subordinate Judge's Court or Small Cause Court not situated at the head-quarters of a District Government Pleader).

The term "Public Prosecutor" means any person appointed by Government under Section 492 of the Criminal Procedure Code to be Public Prosecutor for a district or a division of a district, or for a specified class of cases in a district or division of a district and it also includes the Government Pleader in the High Court for the purposes mentioned in Rules 47 of these Rules, and any person appointed by a District or Subdivisional Magistrate for the purposes mentioned in Rule 50 of these Rules.

38. The salary of the Government Pleader in the High Court is Rs. 300 per month. The salaries of the District Government Pleaders are as follows:—

Ahmedabad	...	...	} Each Rs. 125 per month.
Surat	...	...	
Thána and Kolába	...	...	
Poona	...	...	

Kaira ... ..	...	...	} Each Rs. 35 per month.
Broach ... ..	...	...	
Ratnágiri ... ..	...	...	
Kánara ... ..	...	...	
Ahmednagar ... ..	...	...	} Each Rs. 20 per month.
Dhárwár ... ..	...	...	
Kaládgi ... ..	...	...	
Belgaum ... ..	...	...	
Sátára ... ..	...	...	
Sholápur ... ..	...	...	
Násik ... ..	...	...	
Khándesh ... ..	...	...	

39. (1.) Subject to the provisions hereinafter contained, all Government Pleaders are entitled to the usual fees allowed by the Courts according to law as costs in each civil cause in which they are engaged.

(2.) In cases in which a reference is made to the High Court under the Stamp Act, and in which the Government Pleader in the High Court is instructed to appear on behalf of Government, he shall be entitled to a fee of thirty rupees.

(3.) In cases in which a reference is made to a Civil Court under Section 15, Act X. of 1870, the fees shall be calculated on the amount of compensation tendered by the Collector under Section 11 of the Act, or, if no claimant attended pursuant to the notice mentioned in Section 9, on the amount of compensation which the Collector, under Section 18, shall have declared himself willing to give to the parties.

(4.) In enquiries under the Indian Treasure Trove Act, 1878, the Government Pleaders, when they appear on behalf of Government, are entitled to the usual fees calculated on the value of the share of the treasure to which Government may lay claim, subject to any increase that may be sanctioned by Government in particular cases.

(5.) Whenever two or more officers of Government may be parties to the same suit, they shall, ordinarily, all be represented by the Government Pleader, who shall alone conduct the suit, and shall receive but one fee for it; but if special circumstances render it expedient to appoint more than one pleader for the conduct of any such case, and whenever it seems necessary to adopt pleadings involving several lines of defence, or separate answers differing in substance, a second pleader may be appointed, with the approval of the Remembrancer of Legal Affairs, or a separate fee may be awarded to the Government Pleader by the Remembrancer of Legal Affairs for each separate defence.

(6.) In cases of unusual importance, or difficulty, or in which marked industry or ability has been displayed, the Remembrancer of Legal Affairs is empowered to grant to a District Government Pleader a further special remuneration not exceeding Rs. 100 for each case. Special remuneration in excess of Rs. 100 may be granted only with the sanction of Government.

40. The Government Pleader in the High Court is also entitled to a fee of thirty rupees for every criminal case in which he actually appears: provided that any person appointed by Government to be Public Prosecutor for the purposes mentioned in Rules 47 and 48 of these Rules, during the unavoidable absence of the Government Pleader, or for any other special reason, shall be entitled to the same remuneration.

41. District Government Pleaders and Public Prosecutors are entitled to a fee of Rs. 10 per diem for every day that they are actually engaged in criminal business either in the Sessions Court or in any Magistrate's Court at head-quarters.

In cases of unusual importance or difficulty, or in which marked industry or ability has been displayed, the Remembrancer of Legal Affairs is empowered to increase this fee to an amount not exceeding Rs. 25 per diem. A higher fee than Rs. 25 per diem may be granted only with the sanction of Government.

42. If the Government Pleader in the High Court is required under Rule No. 52 to appear in any case in the mofussil, he is entitled to a fee of Rs. 150 per diem for every day that he is necessarily absent from Bombay. This fee is inclusive of travelling and all other expenses.

43. If a District Government Pleader or Public Prosecutor is required under Rule 53 to proceed to Bombay, he is entitled to a fee of Rs. 25 for every day that he is necessarily absent from his station, and to his actual travelling expenses to and from Bombay, and to his actual expenses for hire of conveyances whilst in Bombay; and if he is required to appear in any case in any Court situated elsewhere than at his head-quarters, he is entitled to a fee, to be fixed by the Remembrancer of Legal Affairs, according to the circumstances of each case, but not exceeding Rs. 50 per diem, for each day that he is necessarily absent from his head-quarters. This fee is inclusive of travelling and all other expenses.

44. A District Government Pleader or Public Prosecutor leaving the head-quarters of his district or division on duty, for which duty he receives no fee in addition to his pay, is entitled to travelling allowance either at Rs. 3 a day for the period of his absence from head-quarters, or at 4 annas per mile travelled otherwise than by railway, and at 1½ annas per mile by railway.

Alibág, Broach and Kaira shall, for the purposes of this and of the last preceding rule, be deemed to

be the head-quarters of the districts of Kolába, Broach and Kaira respectively: provided that no travelling allowance shall be admissible under this rule for journeys on duty between any of the above places and Thána, Surat and Ahmedabad respectively, and that nothing in the latter part of Rule 43 applies to appearances in any Court situated in the three last-mentioned places.

45. It is the duty of Government Pleaders to appear on behalf of Government, or of any Government Officer, in any suit or other civil proceeding to which Government are a party, or the institution or defence of which is undertaken by Government, or in any suit or other civil matter, in which Government requires their services, whoever the nominal party on whose behalf they are called on to appear may be, if Government determine that the case is one in which they have such an interest as to render it advisable that it should be conducted on their behalf.

Ordinary duties of Government Pleaders.

46. Whenever special counsel is employed by the Remembrancer of Legal Affairs, under Rule 25, in Bombay for any case to be heard either in Bombay or in the Mofussil, the Government Pleader in the High Court shall take (under instructions from the Remembrancer of Legal Affairs) the usual steps for retaining such counsel. The counsel's brief will be prepared, for any case to be tried in Bombay, by the Government Pleader in the High Court, and for any case to be tried in the Mofussil by the Government Pleader of the district, or by the Public Prosecutor of the district or division in which the case is to be tried; and, in the latter case, the brief, when prepared, will be forwarded by the District Government Pleader, or the Public Prosecutor to the Government Pleader in the High Court for submittal to the counsel.

Retaining and instructing of special counsel for Mofussil cases.

47. The Government Pleader in the High Court is appointed Public Prosecutor for the purpose of presenting appeals to the High Court in cases of acquittal on behalf of Government under section 417 of the Criminal Procedure Code, and for the purpose of appearing for the prosecution in criminal appeals heard before the High Court under section 423 of the said Code, and for the Crown in other criminal cases which come before the High Court on its Appellate Side under the provisions of the Criminal Procedure Code.

Duties of the Government Pleader in the High Court in criminal cases.

~~The Government Pleader in the High Court is empowered by Government under section 422 of the Criminal Procedure Code to receive notices of criminal appeals to be heard before that Court.~~

48. The Government Pleader in the High Court is bound to appear for the prosecution or the Crown in criminal appeals before the High Court under section 423 of the Criminal Procedure Code, and in other criminal cases which come before the High Court on its Appellate Side under the provisions of the said Code, if called upon. He will ordinarily appear in every case which comes before the Court on reference, and in every appeal against an acquittal; and in all other cases, he will appear if specially instructed to do so by the Magistrate of a district or the Remembrancer of Legal Affairs, but not otherwise.

49. Notices of commitments and appeals under sections 218 and 422 of the Criminal Procedure Code will be given to the District Government Pleaders and Public Prosecutors who will ordinarily conduct the prosecution in every trial before Courts of Session in accordance with section 270 of the Criminal Procedure Code, and appear for the prosecution at the hearing of any appeal before those Courts when counsel, whether a barrister or pleader appears for the appellant, or when they are specially instructed by the Magistrate of the district under Section 492 of the Code. When so required by the Magistrate of the district, or by the Remembrancer of Legal Affairs, it is their duty also to conduct the prosecution in any trial before a Magistrate.

50. When, under section 492 of the Criminal Procedure Code, a Magistrate of the district or subject to his control a Subdivisional Magistrate appoints any person in the absence of the Public Prosecutor or when no Public Prosecutor has been appointed to be Public Prosecutor for the purpose of conducting the prosecution in any trial before the Court of Sessions, such person shall be entitled to the same remuneration as would be payable under Rule 41 of these rules.

But no such person shall be appointed by a Magistrate of the district without the concurrence of the Remembrancer of Legal Affairs, and if, for special reasons, a higher rate of remuneration than the above is deemed necessary for the person whom it is proposed to appoint, the sanction of Government must be obtained, through the Remembrancer of Legal Affairs, before any liability is incurred.

51. When the Public Prosecutor for the Presidency or special counsel appears for the prosecution in any case before the High Court, or any Sessions Court, the Government Pleader or Prosecuting Pleader will appear also and assist, or instruct the Public Prosecutor or special counsel, as may be necessary.

52. The duties of the Government Pleader in the High Court are ordinarily restricted to that Court, but it is his duty, also, whenever his services can be spared without inconvenience to that Court, and the Remembrancer of Legal Affairs so requires, to appear in any case, whether civil or criminal, in any Court in the Mofussil.

53. Similarly District Government Pleaders' duties are ordinarily restricted to the Courts at the headquarters of the district for which they are appointed, and Public Prosecutors' duties are ordinarily restricted to the Sessions Courts to which they are respectively appointed; but when so required by the Collector or Magistrate of the district, or by the Remembrancer of Legal Affairs, they will appear in any case in any Court in the said district, or proceed to Bombay to instruct counsel, or to assist at the hearing or trial of any case in the High Court, or for any other such purpose: provided that in the case of Public Prosecutors such requisitions shall be confined to criminal cases.

54. The duties of Subordinate Government Pleaders are limited to appearing on behalf of Government in the Courts for which they are respectively appointed in any suit or other civil matter in which the District Government Pleader would appear if such suit or matter arose in any Court at the head-quarters of the district. They are to be subordinate to the respective District Government Pleaders, and whenever a District Government Pleader appears in any Court in which there is a Subordinate Government Pleader, the latter will appear with him as junior pleader.

55. It is the duty of the Government Pleader in the High Court to advise District Officers only in respect of any proceedings, whether civil or criminal, which he has or may have to conduct on behalf of Government, but his duties as hereinbefore described extend to Government business in all its departments, whether under the Supreme or Local Government.

56. It is the duty of the District Government Pleaders to advise all local officers not only in respect of any proceedings, whether civil or criminal, which they may have to conduct on behalf of Government or of any such officer, but also, to the best of their ability, on all legal matters which any such officer may refer to them concerning any Government business of any kind or in any department, whether such department be under the Supreme or Local Government.

(2). RULES FOR THE GUIDANCE OF ALL OFFICERS CONNECTED WITH THE INSTITUTION AND DEFENCE OF SUITS ON BEHALF OF OR AGAINST GOVERNMENT.

I.—Institution of Suits on behalf of Government.

Any officer wishing to institute a suit shall submit a clear and detailed report, Report to be submitted before a suit is instituted. a clear and detailed report, through the ordinary channel of communication, to the Head of his department, showing—

(a) the circumstances which render the suit necessary ;

(b) the exact nature of the claim for which it is to be brought ;

(c) the steps, if any, which have been taken to obtain satisfaction of the claim without bringing a suit ;

(d) what objection or excuse, if any, the defendant has urged against the claim ;

(e) the evidence, both oral and documentary, which it is proposed to adduce in support of the claim ; and

(f) the evidence which, so far as is known, the defendant will be able to adduce in his defence.

All documents relied upon, and all the correspondence and written proceedings, whether in English or in the vernacular, connected with the proposed suit, should accompany the report.

2. It should be stated in the report whether or not the circumstances of the person against whom it is proposed to institute the suit are such as to render it likely that execution will be obtained of any decree that may be given against him.

The probability of the recovery of a sum at least equal to the costs should be ascertained before recommending the institution of any suit, unless, for reasons which should be explained, it is considered that the suit should be brought, notwithstanding that the recovery of costs is doubtful.

3. The head of the department, if he thinks that all the necessary preliminary steps have been taken, and that there is *prima facie* sufficient cause for the institution of a suit on behalf of Government, shall refer the report with his opinion to the Remembrancer of Legal Affairs.

4. The Remembrancer of Legal Affairs will then thoroughly inform himself of the whole of the circumstances, calling for such further information, or additional papers

Legal Remembrancer's duty on receipt of report.

as he thinks necessary, and report his opinion to Government in detail as to the advisability of instituting a suit.

The report of the officer who proposed the institution of the suit and the opinion of the head of the department should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

5. The report of the officer who proposed the institution of the suit and all other documents accompanying the report of the Remembrancer of Legal Affairs to Government will be returned to him with the order of Government for record in his office.

Papers to be recorded in the Legal Remembrancer's office.

6. If the institution of the suit be sanctioned, a draft of the plaint will be prepared by the Government Pleader of the district in which the suit is to be instituted, in consultation with the officer who proposed its institution, and will be submitted by him direct to the Remembrancer of Legal Affairs for approval.

Preparation of plaint.

## II.—Defence of Suits.

7. Section 424 of the Civil Procedure Code requires that suits against Government or Government officers should be preceded by a notice to be left either with a Secretary to Government, or with the officer concerned. When a notice of this kind is received by a Secretary to Government it will be at once forwarded to the officer principally concerned in, or cognizant of the matter respecting which an action is threatened.

Notices of actions how to be dealt with.

The officer receiving any such notice, whether from a Secretary to Government, or direct from the complainant, should give it immediate and careful attention. The complainant should be desired, when his complaint is vague in the statement of the alleged infringement of this right, or of the officer whose acts are impugned, to set these points forth succinctly and clearly, as the most effectual means towards obtaining such relief as may properly be given. Should it prove impossible to obtain a lucid and definite statement of the complainant's case in this way he should be examined orally as to all important points, and his answers should be taken down in writing, and verified by his signature, or by a memorandum that the paper was read over to the complainant and assented to by him. The documents above referred to should in every case be carefully preserved, together with any that the complainant may produce in support of his claim or complaint.

8. The conduct or act complained of may have been either (1) wholly indefensible, (2) justifiable, or (3) of a mixed or doubtful character.

Examination of the grounds of complaint.



In every case the officer receiving the notice should endeavour, without prejudice, to determine to which of these classes it is to be assigned.

If it is indefensible, it is his duty to do what lies in his power to give immediate redress, or to obtain it by a full report to the proper authorities.

If the complaint is plainly groundless or if the threatened action is one which must undoubtedly be defended, if it is brought, no further notice need be taken of the complaint, but the officer concerned should at once proceed, as far as possible, to collect the information and papers which will be afterwards required under Rules 11 and 12.

The chief difficulty arises in the third class of cases; and in these the officer receiving the notice should use every possible effort to distinguish between acts which have been properly done in the discharge of a public duty and those in which, through carelessness, ignorance, or imprudence, some real cause for complaint has been given. Such analysis will, in the majority of cases, reduce these acts under one of the two heads already considered, and they should then be dealt with accordingly. Where there is a doubt as to the real intention of the Government or of a superior authority in any order, the carrying out of which has occasioned the complaint, that doubt should be cleared up by an immediate reference. When there is a doubt as to the legality of the act complained of, though in apparent fulfilment of a rule or order, issued by a superior authority, a clear statement of the case should be submitted for orders to be issued after the opinion of the law officers shall, if necessary, have been obtained.

Pending references in cases falling under either the first or third head, the complainant should be informed that some delay is requisite for the proper disposal of his complaint, and, when instructions have been received, he should be at once informed of what is to be done; but every endeavour should be made to have the matter disposed of within the period of two months from the delivery of the notice allowed by the Civil Procedure Code before the threatened action can be instituted.

9. When a suit has been instituted, if it is against Government, and the summons is therefore served on the Government Pleader, he shall *at once* procure an *uncertified* copy of the plaint and forward it and the copy of the summons received by him (with the date of its receipt by him noted on the back) to the officer who himself, or by his subordinates, is alleged to have given rise to the plaintiff's cause of action.

If the plaint relates to the acts of two or more officers, the Government Pleader shall communicate as above with the principal of such officers.

10. If, owing to the suit being against an officer in his official capacity, the summons is served on that officer personally, he shall *at once* forward a *vakalatnāma* to the

Government Pleader (unless the Government Pleader already holds a general power of attorney from him), and procure from him an *uncertified* copy of the plaint.

11. The officer to whom the Government Pleader refers under Rule 9, and any officer who is sued in his official capacity, and who desires that Government should undertake the defence of the suit, shall collect, with the least practicable delay, all the information regarding the facts of the case which he can procure.

12. He is then, within one month from the date of his being first apprized of the institution of the suit, to submit the following papers, through the ordinary channel of communication, to the head of his department (namely) :—

- (a) a copy of the plaint in the vernacular ;
- (b) a translation of the same into English, in half margin, the more important of the statements therein being distinctly marked with letters (a), (b), &c., and notes being added in the margin stating whether such statements are correct or not, and if not, in what respect they are inaccurate : (when the requisite explanation cannot be thus compressed, reference should be made to the para. of the accompanying statement in which the matter should be fully discussed) ;
- (c) a full and detailed statement (1) of the circumstances which led to the suit, (2) of the course which it is proposed to adopt, namely, whether to admit, compromise, or defend the suit, and of the reasons for the same, and (3) if it is proposed to defend the suit, of the grounds on which it is proposed to base the defence, and of the evidence to be adduced ;
- (d) if the case turns on documentary evidence copies of the documents (or the originals) relied on by the plaintiff (if procurable) and by the defence ;
- (e) all the correspondence and written proceedings, whether in English or in the vernacular, connected with the subject-matter of the suit.

The forwarding report should state distinctly (1) the number of the suit, (2) the date on which, and the Court in which, it was instituted, (3) the names of all the parties, (4) the amount or value of the claim, (5) the date fixed by the Court for the first hearing, and (6) whether notice of the action has been given under section 424 of the Civil Procedure Code, and if so, the date of delivery of such notice.

13. If the suit is against an officer in his official capacity he shall instruct the Government Pleader to move the Court, from time to time, to grant an extension of the time for hearing the claim, under section 423 of the Civil Procedure Code, until the orders of Government are received. In the case of suits against

Applications for adjournments pending receipts of orders.

Government, the Government Pleader shall make the necessary applications to the Court for time, under section 420 of the Code, without express instructions. If in any instance the Court is likely to decline to grant further time, it is the duty of the Government Pleader to inform the officer concerned in the defence of the suit, and in emergent cases, the Remembrancer of Legal Affairs.

14. If two or more officers belonging to different departments are sued conjointly, or if the plaint in a suit against Government relates to the acts of two or more such officers, they should, with the least possible delay, communicate one with the other, and after, if possible, mutual consultation with a view to a common line of defence, arrange for the preparation of a joint report. When a joint report is not sent, a separate report should be submitted simultaneously by each officer, care being taken by the officer principally concerned that all the requirements of Rule 12 are complied with.

15. The provisions of Rules 3, 4 and 5 relating to the institution of suits on behalf of Government, shall apply, *mutatis mutandis*, to reports submitted under Rule 12.

16. If the defence of a suit against Government is sanctioned, or if Government undertakes the defence of a suit against an officer in his official capacity, the written statement to be filed in answer to the plaint shall be subscribed and verified by the Government Pleader whose duty it is, under sections 420 and 426 of the Civil Procedure Code, to "answer to the plaint," and in the case of a suit of the latter class the Government Resolution sanctioning the defence is to be deemed to be the Government Pleader's "authority to appear and answer the plaint," and he shall at once on receipt thereof move the Court to cause a note of his authority to be entered in the register, but shall not produce such Resolution in Court.

17. The written statement and the issue sought on behalf of Government are ordinarily to be in strict accordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government; but the Government Pleader is responsible, in communication with the officer concerned in the suit, for the correctness and exhaustiveness of the details of the defence.

### III.—Conduct of Suits.

18. The responsibility for the conduct of a suit in accordance with the opinion of the Remembrancer of Legal Affairs so far as concurred in by Government, shall rest with the Government Pleader, unless special counsel is appointed on behalf of Government;

and it is the duty of the Government Pleader, during the progress of the suit, to consult the Remembrancer of Legal Affairs on all matters connected with it as to which he experiences any difficulty or doubt, and especially in respect of any interlocutory order made by the Court, on any application of the opposite party which seems to require particular instructions.

If special counsel is appointed, it is the duty of the Government Pleader, subject to the orders of the Remembrancer of Legal Affairs, to instruct him, and, when necessary, to prepare his brief, and generally to aid him in the conduct of the case.

19. In cases connected with the departments under the control of the Collector or other Officer to furnish information and prepare evidence. Collector and Magistrate of the district, it is his duty, or that of any subordinate whom he may specially depute for the purpose, and in cases connected with any other department, it is the duty of the officer who proposed the institution, or who sought the sanction of Government for the defence of the suit (as the case may be), to ascertain that the Government Pleader, or special counsel, is thoroughly acquainted with the facts of the case, and with the evidence to be adduced in support of the claim, and to see that the necessary evidence, whether oral or documentary, is ready by the proper time. The Government Pleader must keep the Collector, or other officer, informed on all points on which his co-operation is necessary, and report, with the least possible delay, if any further evidence, or information, is required, moving the Court, if necessary, from time to time to postpone the case, or adjourn the hearing.

20. When a suit is under trial, some intelligent officer thoroughly conversant with the facts of the case should be deputed to be present to instruct the Government Pleader as to the truth concerning matters which arise unexpectedly, and to direct his attention to the documents, or other evidence, that may become important at each stage of the trial. In important cases, and in every case in which special counsel is retained, an Assistant or Deputy Collector, or an officer of similar rank should be deputed for this purpose.

21. Should there be a difference of opinion between the Government Pleader or special counsel and the Collector or other officer at whose desire the suit has been instituted or defended, as to the manner of conducting the case, or should the opinion of the Remembrancer of Legal Affairs prove unintelligible on any point, or open to objection, the Remembrancer of Legal Affairs shall at once be communicated with in order that the difficulty may be settled. Should there eventually be an irreconcilable difference of opinion between the Collector or other officer and the Remembrancer of Legal Affairs, a reference shall forthwith be made by the latter to Government.

22. The following important points relating to the conduct of all suits should be carefully attended to by Government Pleaders and all officers concerned (namely):—

(a) the averments in a plaint, or in a written statement, should generally be based in every material point on the proof which can be adduced in support of them;

(b) the evidence, whether oral or documentary, on which it is intended to rely should be carefully scrutinized by the Government Pleader *before* it is adduced, and he should advise as to its admissibility, and probable importance, or unimportance for the purposes of the suit, and suggest what evidence, if it be forthcoming, may with advantage be substituted for that which, in his opinion, would be weak or inadmissible;

(c) all the available evidence should be assiduously collected and made ready for the day fixed for its reception, and the necessity of making applications for adjournment should, as much as possible, be avoided, and such applications on behalf of the opposite party should, unless they are made for sufficient reasons, be resisted as tending to prolong the litigation, and to give opportunities for the fabrication of false evidence;

(d) all documentary evidence should be ready and be produced at the first hearing of the suit (*i.e.*, the day fixed for the settlement of issue), as required by section 138 of the Civil Procedure Code, and when a suit is instituted, the documents sued upon, should be produced in Court when the plaint is presented, together with copies thereof, as required by sections 59 and 62 of the Code, and the list of other documents relied upon as evidence, which is required by section 59 to be annexed to the plaint should be very carefully prepared. Applications to the Court to accept any document in evidence, at any subsequent stage of the trial should, unless under special circumstances, be avoided, as such applications cannot be granted without the grant of similar indulgence to the opposite party, which may place Government at a disadvantage, and should be resisted, as holding out a temptation to forgery;

(e) documents filed by the opposite party should be carefully examined at the earliest opportunity, and compared with originals in the Government records, or with other papers which tend to establish, or subvert, their authenticity.

(f) the *production* of documents in the possession of Government or of any Government officer when lawfully required by the Court, or by the opposite party, should not be resisted unless for good and sufficient reasons such as are recognized by law; but the question of the *admissibility* of the documents, when produced, should be carefully considered, and argued, it being borne in mind that the opinions of individual officers contained in official correspondence (which is so often

called for by persons engaged in litigation with Government in order to establish their case) are, as a rule, not admissible in evidence ;

(g) the object of Government in sanctioning either the institution, or defence, of any suit is simply to establish the truth ; and whilst Government expect the utmost vigilance and care on the part of those entrusted with the conduct of litigation on their behalf in asserting and protecting their just interests, they would impress upon pleaders who have the charge of cases that they will not countenance any attempt to snatch an unfair advantage by the withholding of important evidence, or by any disingenuous proceeding whatever.

23. As soon as a suit is decided, the Government Pleader shall communicate the nature of the decision to the Collector, or other officer concerned, giving, in important or interesting cases, a brief statement of the grounds thereof. A duplicate of the Government Pleader's report shall be at once forwarded by him direct to the Remembrancer of Legal Affairs.

24. The Government Pleader shall then obtain with as little delay as possible two copies, one certified and the other uncertified, of the Court's judgment, and one certified copy of its decree. The certified copies of the judgment and decree he shall forward to the Collector or other officer concerned ; the uncertified copy of the judgment he shall forward to the Remembrancer of Legal Affairs direct.

25. If the decision is entirely in favour of Government, the copies may be forwarded by the Government Pleader according to the last rule without comment, and the Collector or other officer shall communicate the result of the suit to the head of his department, sending him a copy of the judgment, or not, as, under the circumstances of the case, he thinks fit. The result need not be communicated by the head of the department to Government unless he is of opinion that for special reasons it is desirable to do so, in which case he shall submit his report to Government through the Remembrancer of Legal Affairs.

The general results of all litigation will be communicated to Government by the Remembrancer of Legal Affairs in his annual report.

#### IV.—Appeals.

26. If the decision is either wholly or partially adverse to Government the Government Pleader when forwarding copies of the decree and judgment to the Collector or other officer concerned, shall state his opinion, with reasons, as to whether an appeal should be brought.

27. The Collector or other officer, after perusing the judgment, shall call upon the Government Pleader to send him uncertified copies of such of the exhibits recorded in the case as he deems necessary to explain the grounds of the decision so far as it deals with the merits of the case (or in important cases, of all the material exhibits), and shall forward them, together with the certified copies of the judgment and decree already received from the Government Pleader, with a report, stating his opinion as to whether the decision should be acquiesced in or appealed against, direct to the Remembrancer of Legal Affairs.

28. This report must be despatched so as to reach the Remembrancer of Legal Affairs within *fifteen days* after the date of the decree, in cases in which an appeal lies to the District Judge, and within *one month* after the said date, in cases in which an appeal lies to the High Court.

29. A copy of the report shall be sent simultaneously to the head of the department, who, if he concurs in it, will merely file it, but if he differs from it, or considers it otherwise necessary to address Government on the subject of it, shall submit a separate report on it without delay to Government through the Remembrancer of Legal Affairs.

30. The Remembrancer of Legal Affairs, after calling for such further information, or additional papers, as he thinks necessary, shall report his opinion to Government as to whether an appeal should be made or not, or as to what other course should be pursued. His report must be despatched in time to enable the orders of Government upon it to be acted upon, if necessary, within the period prescribed by law for filing an appeal.

The report of the Collector or other officer, and, if any have been received, that of the head of the department also, should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs, pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

31. The report of the Collector, or other officer, and of the head of the department, if any, and all other documents which accompany the report of the Remembrancer of Legal Affairs to Government will be returned to him with the order of Government for record in his office.

32. If an appeal be sanctioned, the Collector, or other officer, will instruct the Government Pleader in the District Court, or in the High

Court, accordingly, at the same time sending him a *vakalatnāma* (unless the Government Pleader already holds a general power of attorney from him), if the suit is against him personally. If the appeal has to be made to the District Judge, the Remembrancer of Legal Affairs will return the copies received by him, under Rule 27, to the Collector, or other officer, who shall make them over to the Government Pleader for his use in the appeal. If the appeal has to be made to the High Court, the said copies shall be sent by the Remembrancer of Legal Affairs direct to the Government Pleader in that Court, and it shall be the duty of the Collector, or other officer, in consultation with the District Government Pleader, to send to the Government Pleader in the High Court, with the least practicable delay, copies of all the remaining material exhibits and other papers connected with the suits for his information and guidance.

33. Appeals are ordinarily to be based strictly on the grounds recommended by the Remembrancer of Legal Affairs and concurred in by Government; but when an appeal is sanctioned generally against a decision, the Government Pleader is responsible for availing himself of all legitimate grounds on which the decree may be open to objection, notwithstanding that any of them may have escaped the notice of the Remembrancer of Legal Affairs, or not have been mentioned by him.

In important or intricate cases the memorandum of appeal should be submitted to the Remembrancer of Legal Affairs for approval before being filed in Court.

34. If an appeal is brought by the opposite party against a decision either entirely, or partly, in favour of Government, a notice of the appeal will be served by the Court either on the Government Pleader or on the officer concerned. In the former case the Government Pleader shall at once obtain an *uncertified* copy of the memorandum of appeal, and forward it and the notice received by him (with the date of its receipt noted on the back) to the Collector or other officer concerned, or to the principal of the officers concerned. In the latter case the officer concerned shall at once send the Government Pleader a *vakalatnāma* (unless the Government Pleader already holds a general power of attorney from him), and obtain from him an *uncertified* copy of the memorandum of appeal.

35. The Collector or other officer concerned shall then carefully compare the grounds of appeal with the Court's judgment, and after consultation, if necessary, with the District Government Pleader, report his opinion as to whether the appeal should be defended, and make any explanation or remarks that may be needed with reference to the grounds of appeal. His report should be submitted to the head of his department



and be accompanied by the same documents as are required to accompany a report under Rule 27.

36. The Head of the Department shall refer the report, with his own opinion, to the Remembrancer of Legal Affairs, and the provisions of Rules 30, 31 and 32 shall then apply, *mutatis mutandis*, to the said report and its accompaniments, and to the Remembrancer of Legal Affairs with regard to his duty in respect thereof, and to the instruction of the Government Pleader, if the defence of the appeal is sanctioned by Government.

Report to be referred by Head of Department to Legal Remembrancer.

Applicability of Rules 18, 19, 20 and 21 to appeals.

37. The provisions of Rules 18, 19, 20 and 21 apply equally to the conduct of appeals as to the conduct of original suits except—

(1) that a discretion must be exercised by the Government Pleader in meeting new points raised for the first time in appeal, but that he should apply for an adjournment to enable him to advise with the officer concerned, or with the Remembrancer of Legal Affairs, if necessary, or any such points in which he may not have been fully instructed, or to which he is not able to furnish an immediate reply;

(2) that it is only necessary to depute an officer to be present to assist the Government Pleader in the High Court when express orders are received from Government to that effect.

38. When two or more officers of different departments are concerned in a case in which an appeal is desired on behalf of Government, or in which an appeal is brought by the opposite party, the foregoing duties will devolve on the principal of such officers, subject, as far as may be, to the provisions or Rule 14.

39. When an appeal has been decided by a District Court, the provisions of the Rules 23, 24 and 25 shall be observed so far as they are applicable, just as in the case of the decision of an original suit.

#### V.—Second Appeals.

40. When an appeal from an original decree has been decided by a District Court, either wholly or partially adversely to Government, the same course is to be pursued with respect to the bringing of a second appeal as in the case of an appeal from an original decree, provided that if the Remembrancer of Legal Affairs is clearly of opinion that the case is one in which the law allows no second appeal, it shall not be necessary for him to refer it for the orders of Government, and the result of the first appeal need not be communicated to Government unless the head of the department, or the

Procedure when two or more officers are concerned in an appeal case.

Procedure when an appeal has been decided adversely by a District Court.

Remembrancer of Legal Affairs, is of opinion, for special reasons, that it should be. If the head of the department communicates the result of an appeal to Government under this rule, he shall submit his report to Government through the Remembrancer of Legal Affairs.

41. When a second appeal is brought against an appellate decree either wholly or partly in favour of Government, the same course shall be pursued as when an appeal is brought in the High Court against a similar original decree.

Procedure when a second appeal is brought against an appellate decree in favour of Government.

42. When an appeal has been decided by the High Court, whether against an original or appellate decree, the Government Pleader shall communicate the nature of the decision, as soon as it is pronounced, to the Remembrancer of Legal Affairs, giving, in important or interesting cases, a brief statement of the grounds of the decision.

High Court's decision in an appeal how to be reported.

He shall then obtain, with as little delay as possible, two *uncertified* printed copies of the Court's written judgment, if any, and forward one to the Remembrancer of Legal Affairs, and one, with the papers in the case, to the Collector or other officer concerned. If the Court records no written judgment, the Government Pleader shall inform the Collector or other officer to that effect and return the papers. The Collector, or other officer, shall inform the head of his department of the result of the case, sending him a copy of the written judgment, if any, or not, as he deems necessary.

The Remembrancer of Legal Affairs shall communicate the result of any such appeal to Government only when he thinks necessary, in special cases submitting a copy of the written judgment also, if any have been recorded; but, as a general rule, he should confine himself to mentioning the different cases and their results in his annual report. Nor need the result of any such appeal be communicated to Government by the head of the department unless the decision appears to him to be specially inconvenient, or to affect the administration in some unusual manner, in which case he shall forward his report to Government through the Remembrancer of Legal Affairs.

\* \* \*

#### VII.—Execution of Decrees.

52. Whenever it has been determined not any further to contest a decision which is either wholly or partly adverse to Government, the Collector, or other officer concerned, shall at once instruct the Government Pleader to pay into the Court whose duty it is to execute the decree, all moneys payable under the decree, care being taken that the decree is fully satisfied within the time fixed for its satisfaction under section 429 of the Civil Procedure Code.

Settlement of adverse decrees.



In the column of remarks, any reasons for delay, or for want of progress in the recovery of dues, should be fully explained; and when any sums are considered to be absolutely irrecoverable, the Collector, or other officer, shall report the amount through the head of his department to the Remembrancer of Legal Affairs, who shall submit the same to Government for orders. If Government direct any such sum to be written off as irrecoverable, it need no longer be shown by the Government Pleader in his quarterly return.

59. Should the Remembrancer of Legal Affairs consider the progress made in the recovery of moneys due to Government under decrees unsatisfactory, he shall bring the matter to the notice of Government.

60. Any sum due to Government under a decree Recoveries out of Court. may, if convenient, be recovered otherwise than through the agency of the Courts; but the Government Pleader should be instructed, under section 258 of the Civil Procedure Code, to certify every such recovery to the Court.

61. The practice of deputing Government servants to bid on behalf of Government at Court's auctions with a view of purchasing the property of judgment-debtors by whom money is due to Government is, generally speaking, objectionable, as it is likely to involve Government in much litigation of a doubtful character, and it should never be resorted to unless with the special sanction of Government, to be obtained through the Remembrancer of Legal Affairs.

#### VIII.—Suits by Paupers.

62. Notices of he day fixed by any Court under section 408 of the Civil Procedure Code for receiving evidence as to an applicant's alleged pauperism, and applications under section 414 of the Code for dispaupering a plaintiff, should be respectively received and made by the District Government Pleaders in the case of any Court situated at his head-quarters, and by the Subordinate Government Pleader appointed for the Court in the case of any other Court.

63. Government Pleaders need not busy themselves about calling evidence in every case in which a notice is served upon them under section 408. But on receipt of any such notice they should at once communicate with the Mámlatdár or Mahálkari of the táluka or mahál in which the applicant resides.

If such officer, after inquiry, informs him that the applicant is a pauper within the meaning of section 401 of the Code, he need take no further steps in

the matter. But if such officer considers that the applicant is not a pauper, he should collect such evidence as he is able in disproof of his alleged pauperism, and instruct the Government Pleader, who will then appear on the day fixed for the hearing, and oppose the application under section 409.

Applications to dispauper a plaintiff under section 414 will be made by a Government Pleader only under express instructions; but it is the duty of Government Pleaders to communicate to the Mámlatdár or Mahálkari any fact which at any time comes to their knowledge which appears to render it desirable that such an application should be made.

#### IX—Miscellaneous.

63 A. As soon as a Government Pleader receives from the Court a copy of a decree directing payment of pauper costs he shall enter the particulars thereof in a Register which he shall keep for this purpose in the following form:—

Consecutive No. of entry.	Date of receipt of Decree from Court.	Name of Court which passed the Decree.	No. and year of Suit or Appeal.	Names of parties.	Substance of orders as to payment of pauper costs.	Pauper costs recoverable.	
						Parties liable.	Amount.
1	2	3	4	5	6	7	8

RECOVERIES.			WRITTEN OFF AS IRRECOVERABLE.		Total of Columns 11 and 13.	REMARKS
How recovered.	Date.	Amount.	No. and date of Government Resolution.	Amount.		
9	10	11	12	13	14	15

63 B. If the party liable to the payment of any such costs or his Pleader is known to the Government Pleader and is readily accessible to him, he shall endeavour to recover the amount due from him at once, and forward the copy of the decree with a report of his proceedings to the Collector.

If the amount due, or any portion of it, cannot be thus recovered, the Government Pleader shall, without delay, forward the copy of the decree to the Mámlatdár of the táluka in which the person liable for the amount due has his residence,

63 C. On receipt of a copy of a decree under the last Rule the Mámlatdár shall make inquiries as to the property and means of the person liable, and, if possible, obtain from him the amount due, or such portion thereof as he is able to pay.

Steps to be taken by Mámlatdár to whom the Government Pleader sends any such decree.

If the Mámlatdár obtains any payment either at this, or at any subsequent time, he shall inform the Government Pleader of the amount thereof.

63 D. If the Mámlatdár is unable to obtain any payment from the person liable for the same, or obtains only a portion of the whole amount due, he shall forward the copy of the decree together with all the information he is able to procure as to the property of the said person, and as to the probability of his being able to pay what is due by him, either at once or at any time thereafter within the period of limitation, to the Collector for orders.

Report when to be made by Mámlatdár to Collector.

63 E. The Collector shall, thereupon, in consultation, if necessary, with the Government Pleader, issue such orders as to the making of an application, in Court for the recovery of the amount due, or otherwise, as he thinks fit.

Steps to be taken by the Collector on receipt of such report.

If it shall appear altogether improbable that the person liable will be able to pay what is due by him under the decree, or the balance of what is so due by him within the period of limitation, or if for any reason the Collector shall think it inexpedient that such person should be further pressed, he may at once apply to Government under Rule 58 for sanction to write off the amount still due, but as a general rule steps for the recovery of pauper costs should be unremittingly continued until the period of limitation expires when, if necessary, application should be made by the Collector as aforesaid under Rule 58.

63 F. If the decree under which pauper costs are recoverable awards to the person liable for the same any money, or other property, the Government Pleader shall carefully watch the execution of such decree and at the proper time enforce the prior right of Government in respect of any such money or other property.

General duties of Government Pleader in respect of the recovery of pauper costs.

It shall also be the duty of the Government Pleader at all times to furnish the Collector or Mámlatdár with any information which comes to his knowledge, the possession of which is likely to facilitate the recovery of the monies due to Government, and when the period of limitation for the execution of any decree is nearly expiring without such decree having been fully satisfied, he shall specially report the fact to the Collector.

63 G. When Government sanction the writing off of any pauper Government Pleaders' Register to be written up from time to time, and Quarterly Returns submitted under Rule 58 to contain particulars of realizations of pauper costs. . . . costs as irrecoverable the particulars of the Resolution shall be communicated by the Collector to the Government Pleader.

The Government Pleader shall make the requisite entries in columns 9—13 of the Register kept by him under Rule 63 A. from time to time as he himself recovers, or obtains information of the recovery, or writing off of the pauper costs due in respect of each decree entered in the said Register.

The Quarterly Return forwarded to the Remembrancer of Legal Affairs by District Government Pleaders under Rule 58 shall show separately the progress made in realizing amounts due to Government under decrees on account of pauper costs and in realizing amounts so due on any other account, and to enable the District Government Pleaders to make complete returns, each Subordinate Government Pleader shall submit to the District Government Pleader to whom he is subordinate a return in the same form and on the same dates as are prescribed in Rule 58 for the returns to be prepared by the latter.

64. Copies of documents on the Government records are often applied for as a means of supporting a claim either before or after the commencement of a suit against Government. Such copies should be furnished when the documents are of a public character and are pertinent to the case for which they are required. Copies of confidential communications, as those between Government and an officer or between one officer and another dealing with particular transactions or the rights or duties of individuals, should not in general be given. Vague and fishing applications for copies should be rejected. In cases of doubt the proper criterion to apply, is that of whether, if a copy is refused, the original may properly be called for by the Court, or whether such a call may properly be resisted according to the principles of sections 123 and 124 of the Indian Evidence Act. When there is a right to inspect, it must be borne in mind that section 76 of the same Act gives a right to a copy. Every copy taken, or its original, should be carefully considered by the Government Pleader, for whose perusal it will be submitted by the officer making the copy.

65. When documents in the charge of a head of a department are called for by a Court, he should consider whether they include communications made in official confidence, the production of which will be injurious to the public interest. To the production of such documents he should object, as falling within the principles of section 124 of the Indian Evidence Act, and he will be careful to prevent his subordinates transgressing this rule upon summons directed to

Production of documents against the public interest.

them personally, instead of to himself, in whom the custody of the documents is vested, and without whose orders subordinates are not at liberty to remove or otherwise deal with the documents of the department.

66. If it appears advisable to a Collector, or other officer, to intervene in any suit to which Government have not been made a party, or, if he shall deem it necessary to institute, or shall be called upon to defend, any miscellaneous civil proceeding on behalf of Government, the rules prescribed for regular suits in all their stages shall, *mutatis mutandis*, be deemed applicable, provided that in cases of emergency the Collector or other officer may act in anticipation of the order of Government, but shall at once report his proceedings through the channel prescribed by the said rules.

67. Cases which are referred to the Civil Court under section 15 of the Land Acquisition Act X. of 1870 need not, as a general rule, be referred under the foregoing rules to Government, through the Remembrancer of Legal Affairs for orders, but the Remembrancer of Legal Affairs may be consulted direct on any points that may arise in respect of such cases involving legal doubts or difficulties.

68. No suit, or other civil proceeding, is to be settled out of Court, or compromised in Court, by any officer of Government, without the express orders of Government to be obtained through the Remembrancer of Legal Affairs, after submitting full explanation of the course proposed to be adopted.

69. All correspondence and all Resolutions of Government on the subject of suits, or other civil proceedings, are to be regarded, by all officers of Government and by all pleaders into whose hands they may come, as *strictly confidential*. No Public officer shall grant copies of any such correspondence or Government Resolution during the presidency of the suit or civil proceeding, or until after its final decision by the highest Court before which it is likely to be brought, for any reason whatever, and no such copies shall be granted at any time after such final decision without the previous sanction of the head of the department.

70. The Remembrancer of Legal Affairs is to keep in his office complete records of all the correspondence connected with every suit or other civil proceeding in which Government, or any Government officer, is concerned. Rules 5, 15, 31 and 36 have been framed with a view of facilitating this purpose, and where the rules do not expressly make provision to that effect, it is to be understood that all original correspondence on the subject of such suits or proceedings is eventually to be returned to the Remembrancer of Legal Affairs for record.



71. Collectors and other officers, who are frequently concerned in suits, or other civil proceedings, should furnish the Government Pleader in the High Court, and the Government Pleader of the district in which such suits, or other proceedings, originate, with a general power of attorney.\*

72. When the exhibits in an original suit, or other proceeding, are so numerous or so important as to necessitate a District Government Pleader's obtaining copies thereof for his own use, or for that of special counsel, and whenever a District Government Pleader for any reason whatever obtains copies of any such exhibit, he shall take care to have them legibly written on one side only of the paper, with a quarter margin, (the paper being of the ordinary foolscap size in use in official correspondence) so that they may be afterwards used by counsel and others (as, for instance, for the purposes of Rules 27 and 35) in every subsequent stage of the case, and the expense of procuring fresh copies from time to time may be thus avoided.

It should be borne in mind that correct uncertified copies (which need not bear any Court-fee stamp) are for all purposes, except for filing in Court, as good and as useful as certified stamped copies, and copies of the latter kind should, therefore, only be obtained when they are required for filing in Court, or when these rules expressly state that certified copies should be procured.

In cases from the Kánarese Districts, Maráthi or English translations must accompany all copies of Kánarese exhibits intended for the use of the Remembrancer of Legal Affairs or of the Government Pleader in the High Court.

73. District Government Pleaders shall send a return to the Remembrancer of Legal Affairs on the first of every month in the following form. When there are no cases to be entered in the return, it shall nevertheless be sent in blank :—

*Return of Original Suits, Appeals and other Civil Proceedings instituted in the District of* 18 , *in which Government or any Government Officer is concerned.*

Court in which instituted.	Nature of Case (i.e., whether an original suit, appeal, or other civil proceeding.)	No. of Cases.	Date of Institution.	PARTIES.		Date fixed or the hearing.
				Plaintiff, Appellant, or Petitioner.	Defendant, Respondent, or Opponent.	

(Signed) A. B.,  
Government Pleader.

\* A form of general power-of-attorney under section 37 of the Code of Civil Procedure is given at page 186 of the High Court's Circular Order Book.

## APPENDIX.

## ACCOUNTS.

1. Government Pleaders will draw their salaries, and their fees for criminal cases, and any special fees which may from time to time be sanctioned by the Remembrancer of Legal Affairs, or by Government, on submitting bills in the usual form to the proper Treasury Officer.

Salaries and fixed fees.

2. To enable them to meet the minor charges incident to the institution and conduct of the cases, whether civil or criminal, with which they are entrusted, the Government Pleader in the High Court shall be allowed a permanent advance of Rs. 500, and such of the District and Subordinate Government Pleaders as the Remembrancer of Legal Affairs authorizes to receive the same, shall be allowed each a permanent advance not exceeding Rs. 200. Only those Government Pleaders who have usually a large number of Government cases on hand shall be authorized by the Remembrancer of Legal Affairs to receive this advance.

Permanent advances for minor charges.

3. Government Pleaders are to defray all the charges connected with each case as they arise, and to submit a bill for the same (and for their own fees in civil cases), as soon as possible, after each case has been decided, to the Collector or other officer concerned in the case.

Bills to be submitted for charges.

But when, as in the case of the Court-fee chargeable on an appeal in which the claim is for a large amount, a Government Pleader has to pay considerable sums out of pocket at once, he may submit separate bills for such sums immediately, provided that the amount of any such bill shall not, in the case of the Government Pleader in the High Court, be less than Rs. 50, and of other Government Pleaders, Rs. 35.

A bill of charges submitted under the first para. of this rule shall include the whole of the charges on account of the case for which it is submitted, and any sums which may have been already drawn on account of the case under para. 2 of this rule shall be shown at the end of the bill and deducted.

4. Every bill submitted by a Government Pleader under the last rule is to be forwarded by him through the Remembrancer of Legal Affairs, and must be accompanied by vouchers, or by a copy of the Court's decree in support of every item contained in it.

Bills to be examined by Legal Remembrancer.

The Remembrancer of Legal Affairs shall, if he passes the bill, countersign and forward it to the officer by whom it is to be paid. The Remembrancer of Legal Affairs is responsible for curtailing unnecessary, or exorbitant charges, and generally for controlling all expenditure incurred by Government Pleaders.

5. Postal and other general contingent charges may be drawn by the Government Pleader in the High Court on bills countersigned by the Remembrancer of Legal Affairs according to the rules in force for payment at the Presidency.

Contingent bills of the Government Pleader in the High Court.

6. The Judges of the Courts to which District and Subordinate Government Pleaders are respectively attached, are authorized to cause their letters and packets to be franked as if they issued from their own offices, and also to pay any bearing charges on official covers which they may receive. The Government Pleaders shall be responsible that such letters, packets, and covers are *bonâ fide* despatched, or received, on Her Imperial Majesty's service only. District and Subordinate Government Pleaders shall not incur any contingent expenses apart from the necessary charges connected with the cases which they have to conduct.

## PART XVII.

### MISCELLANEOUS.

#### ROAD TOLLS.

*Army Act, 1881, 44 & 45 Vict., c. 58.*

*Section 143.*—All officers and soldiers of Her Majesty's regular forces on duty or on the march; and

their horses and baggage; and

all prisoners under military escort; and

all carriages and horses belonging to Her Majesty or employed in her military service, when conveying any such persons as above in this section mentioned, or baggage or stores, or returning from conveying the same;

shall be exempted from payment of any duties or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing place, or in passing along or over any turnpike or other road or bridge, otherwise demandable by virtue of any Act of Parliament already passed or hereafter to be passed, or by virtue of any Act, ordinance, order or direction of the Legislature or other authority in India or any colony:

Provided that nothing in this section shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels.

#### *Exemptions under Section 5 of the Tolls Act III of 1875.*

1. Military officers and camp followers, carts, cattle, &c., when moving under the orders of competent Military authority; animals belonging to the Government cattle farm.

2. His Excellency the Governor General and His Excellency the Governor, with their camps.

3. Foreign Rulers or Native Chiefs and their followers or retainers; also other Natives of distinction whom Government, the Commissioner, or the Collector, may see fit for special reasons to exempt.

4. Grass-cutters attached to Cavalry or Artillery regiments.

5. Cultivators, wood-cutters, grass-cutters, and the like, who have daily or constantly to pass the toll on their way to their daily occupation (*the precise terms of this exemption will be left to the decision of the Collector*).

6. Carts containing public treasure, with their escorts and luggage.

7. Carts actually employed in the conveyance of material for the construction or repair of public works, constructed or maintained by Imperial, Provincial, or Local Funds. In other cases when a toll is passed by carts, &c., hired for, or in use on the

public service, the toll is to be paid and the sum recovered by a contingent bill. For instance, a Collector will pay toll for the whole of the carts containing his own luggage and the Government records and tents, recovering the toll on account of the latter by a contingent bill.

8. Peons of all departments wearing their belts.

9. Mail carts, tongas, horses, vans, actually carrying Her Majesty's mails; also, led ponies employed in the mail service, and empty mail tongas (*i.e.*, red mail carts), on all mail tonga lines.

10. Officers and subordinates of the Public Works Department while on duty on the roads under their charge, and on which they are actually engaged in supervising repairs.

11. Overseers of mail lines when travelling on duty.

12. Foresters and Forest Inspectors when actually travelling on duty.

13. A'bkári Inspectors and their subordinates when actually travelling on duty.

*Tolls Act Amendment Act, 1881.*

Under this Act a lessee of tolls, and every person employed by him as his agent for collecting them, will have power to seize any part of the burden or load of the carriage or animal in respect of which a toll is chargeable and is not paid; and if any toll remains unpaid for twenty-four hours, the case must, under section 4 of Bombay Act III. of 1875, be brought before the officer appointed to superintend the collection of the toll, who may sell the property seized if the owner of it does not, before the commencement of the sale, tender the amount of all the expenses incurred, and of double the toll payable by him.

Care must be taken to guard against the abuses to which the power of seizing property granted to the lessee of tolls and his employés is liable.

Local Fund Committees are appointed to *manage*, and the Mámlatdárs and Maháلكaris within their respective charges to *superintend*, the collection of tolls. Lessees under this Act are officers appointed to collect tolls, or Toll Collectors, within the meaning of Act III. of 1875.

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PUBLIC FERRIES.

*Exemptions under Section 3, clause (d) of Bombay Act II of 1868.*

The following notification of 2nd May 1882, has been published:—

“In exercise of the power conferred on him by Section 1 of Bombay Act II. of 1878 (amending Bombay Ferries Act, 1868,) the Governor in Council is pleased to declare that the persons, vehicles, animals, &c., mentioned in the following list are exempt from payment of ferry tolls otherwise demandable under Bombay Act II. of 1868 in addition to

the persons exempted by Section 3 of Bombay Act II. of 1868: provided that exemptions heretofore allowed since the passing of Bombay Act II. of 1878 in conformity with a Notification of the Governor in Council published at page 890 of the *Bombay Government Gazette* of 11th August 1870, shall be deemed to have been lawfully as if this notification had been in force during such period:—

1. All officers and soldiers of Her Majesty's regular forces on duty or on the march, and their horses and baggage; and all prisoners under military escort; and all carriages and horses belonging to Her Majesty or employed in Her military service, when conveying any such persons or baggage or stores, or returning from conveying the same.
2. All camp followers, carts, cattle, &c., when moving under the orders of competent military authority. Animals belonging to the Government Cattle Farm.
3. His Excellency the Governor General and His Excellency the Governor with their camps.
4. Foreign rulers or native chiefs and their followers or retainers; also other natives of distinction whom Government, the Commissioner or the Collector, may see fit for special reasons to exempt.
5. Grass-cutters attached to Cavalry or Artillery Regiments.
6. Cultivators, wood-cutters, grass-cutters and the like, who have daily or constantly to cross the ferry on their way to their daily occupation (*the precise terms of this exemption will be left to the decision of the Collector*).
7. Carts containing public treasure, with their escorts and baggage.
8. Carts actually employed in the conveyance of material for the construction or repair of public works, constructed or maintained by Imperial, Provincial, or Local Funds.

In other cases when a ferry is crossed by carts, &c., hired for, or in use on, the public service, the toll is to be paid and the sum recovered by a contingent bill. For instance, a Collector will pay toll for the whole of the carts containing his own baggage and the Government records and tents, recovering the toll on account of the latter by a contingent bill.

9. Peons of all departments wearing their belts.
10. Mail carts, tongas, horses, vans actually carrying Her Majesty's mails; led ponies employed in the mail service, and empty mail tongas (i.e., red mail carts) on all mail tonga lines.
11. All military and public stores, and goods belonging to the Public Works and Local Funds Department, Treasure and Official Records.

12. All village and district officers, and all officers belonging to any of the departments under Government when actually travelling on duty, and who have been exempted under Section 5 of the Tolls Act, 1875; and all Public Works and Local Fund maistries, mustering karkuns, post-runners, mukadams, and peons, when provided with a pass showing that they are *bond fide* employed in these departments.
13. All young children in arms.
14. All persons belonging to the Bandar Establishment of the Indus Conservancy Department at Kotri and Sukkur in the Province of Sind.

Provided that in the case of any of the officers above mentioned whose exemptions have been granted after the existing ferry contracts have been sold and accepted by contractors, the exemptions shall be deemed to come in force on the expiry of the present contracts :

Provided also that the exemption from payment of ferry tolls in the case of Government officers is limited to the officials above mentioned and their actual conveyance, and does not extend to their camp equipage and personal baggage. The exemption is only to extend to the one horse on which the officer may happen to be riding.\*

*Bombay Public Ferries Act, 1868.*

*Section 2.*—The following notification was issued by the Bombay Government in the General Department, under date the 16th December 1868 :—

“It is hereby notified, under the provisions of Bombay Act II. of 1868—

“That all existing Ferries within the limits of the Presidency of Bombay which have been declared to be Public Ferries under the provisions of any law heretofore in force shall be deemed to be Public Ferries under the present Act.

“That all authorized tolls levied at such Ferries shall, until further orders, continue to be so levied at the same rates.

“That under section 17 of the said Act the Right Honourable the Governor in Council is pleased to delegate the following powers :—

“*To Commissioners.*—Power under section 5 to lease any Public Ferry by public auction or by private contract for a period not exceeding seven years.

“*To Collectors of Districts.*—(1) Power under section 4 to provide for the appointment of Toll-keepers, Ferryman, and other servants for the

\* The object of the provision is to prevent any misapplication of the term ‘actual conveyance.’ For instance, an officer may require six riding horses to accomplish a journey. In crossing a ferry the horse he happens to be riding is exempt but not the other five horses. So, too, if an officer is making a journey by stages using various modes of conveyance, the particular one which he is actually using when he has to cross a ferry alone is exempt from payment of toll, whether it happens to be a carriage and pair, or a riding horse, or a camel, or an elephant, or any other kind of conveyance. G.B. No. 2294 of 20th June 1882.

management and conduct of the Public Ferries within their districts.

“(2) Power under section 5 to confirm all existing leases of Public Ferries for the remaining periods of the leases, provided such period do not exceed seven years.

“(3) Power to lease any Public Ferry by public auction or by private contract for a period not exceeding one year.” (*Bombay Government Gazette for 1868, Part I., p. 1235.*)

By a notification dated 5th August 1870 (*Government Gazette for 1870, Part I., p. 890*), para. 2 of the above notification is superseded, and all Ferries in the Bombay Presidency are divided into classes, and the rates of toll leviable at each class of Ferry are specified, and certain persons are exempted from payment of tolls.

Bombay Act II. of 1868 has been extended to the Province of Sind by Government Notification dated the 27th January 1869. The Governor in Council had declared, “with reference to Act II. that the Commissioner in Sind shall stand for Commissioner,” and that the above notification of the 16th December 1868 shall be in force in Sind.

*Sections 4 and 5.*—See the note to section 2.

*Section 5.*—The conditions which Government deem it advisable to insert in leases of Public Ferries are :—

- (a) That the contract shall not be sublet without the express sanction of the Collector given in writing.
- (b) That the amount of the contract shall be paid by the farmer in monthly instalments, on dates to be fixed by the Collector and inserted in the contract.
- (c) That satisfactory security be given for the punctual payment of the amount of the contract, and of interest at one per cent. per mensem on all sums which may fall into arrears.
- (d) That the contract may be cancelled for failure on the contractor's part to observe any of its terms, and that the contractor and his securities shall be answerable for any loss which may be caused, by its resale, and the direct management of the Ferry for the period which remained for it to run.
- (e) That the Collector may make all necessary additions or repairs to the contractor's boats or baskets; on his failing to do so for five days after being required in writing, the cost to be defrayed by the contractor, and recovered from him as a revenue demand in default of payment.
- (f) That a certain number of boats and men, to be fixed by the Collector, shall be maintained during the period of the contract.
- (g) Any other conditions consistent with the provisions of the Act which may be specially sanctioned by the Commissioners, to whom power

is hereby delegated under section 17 of the Act for this purpose. (Notification dated 5th August 1870, *Bombay Government Gazette* for 1870, Part I., p. 891.)

*Sections 6, 12 and 17.*—The Bombay Government has delegated to the Commissioners power to approve and modify rules made by Collectors of districts for the regulation of Public Ferries, under section 12; also to the Collectors of districts power to approve of regulations made by lessees, contractors, or farmers, under section 6. (Notification dated the 11th August 1869, *Government Gazette* for 1869, Part I., p. 902.)

Government has delegated to Collectors "the power to determine the number of boats and men to be kept up at each Ferry, and the dates on which instalments shall be paid, which are to be included among the conditions of the lease under section 5 of the Act," and has also vested them with general control of the Public Ferries in their districts, under the orders of Government and subject to the general control of the Commissioner. (Notification dated the 5th August 1870, *Government Gazette* for 1870, Part I., p. 892.)

The Bombay Government has delegated to the Commissioner in Sind the powers of Government contemplated in sections 2, 6 and 12. (Notification dated the 14th September 1870, *Government Gazette* for 1870, Part I., p. 1019.)

## PRINTING PRESSES AND NEWSPAPERS ACT XXV. OF 1867.

### *Sections 20 and 21.*

1. The three copies of the books referred to in section 9 of the Act shall be delivered to the Collector of the district in which the press issuing the work is situated, at the head-quarter station of the Collector. The printer at the same time will present a bill of the cost and fill up a form containing the particulars specified in section 18 of the Act.

2. The Collector will, with reference to section 11 of the Act, send one copy of each book to the Secretary to Government in the Judicial Department, and the remaining two copies to the Director of Public Instruction.

3. Any fines recovered under this Act will be remitted to the Collector of the district, who will keep an account of receipts and disbursements under this Act, to be annually embodied in the Accountant General's Office, the financial result being reported to Government.

### *Exemptions under Section 21.*

The following books, &c., are excluded from the operation of the Act:—

1. All books, maps, sketches, charts and papers, printed or published under the orders of Government or for official purposes.



2. All reprints and translations, without comment or annotation, of Acts of the several Indian Legislatures published in British India.
3. Reprints of books without additions or alterations, and without notes or commentaries.
4. Acts of the Legislative Council without notes or commentaries.
5. Price lists and tradesmen's circulars.
6. Catalogues of books and other articles, auctioneers' notices and advertisements.
7. Play bills, comprising advertisements of theatrical and musical entertainments.
8. Decisions of Courts of law without notes or commentaries.
9. Petitions and appeals addressed to constituted authority under the provisions of law.
10. Testimonials of private individuals or public officers.
11. Annual reports of schools, banks, societies and firms.
12. Almanacs and calendars.
13. Labels affixed to articles of commerce.

All such books as become the property of Government for Educational purposes are exempted from the registration fee of two rupees leviable under section 18 of the Act.

#### DESTRUCTION OF RECORDS ACT, 1879.

All the rules and orders made before the passing of the Act have, under section 6 of the Act, the force of law until they are rescinded by rules made under the Act. The Commissioners have power, under section 4 of the Act, from time to time to make rules regarding the disposal, destruction, &c., of records, books and papers belonging to or in the custody of the Revenue Courts and offices; and all such rules, after being confirmed by the Local Government and sanctioned by the Government of India, must be published in the local official *Gazette*, and thereupon have the force of law. No fresh rules or orders have been passed since the Act came into force which relate to the Revenue Department.

#### THE MA'MLATDARS' COURTS ACT, 1876.

1. The purpose of Act XVI. of 1838 and Bombay Act V. of 1864 was temporary only, and chiefly to provide for the cultivation of the land and to prevent breaches of the peace until the Civil Courts should determine the rights of the disputants. The decisions of the Revenue and the Mámlatdárs' Courts as to possession and dispossession do not bind the Civil Courts, being of a summary character. The Civil Courts alone can entertain the question of title. (I. L. R. 1 Bom. 624.)

2. A Mámíatdár's order is not conclusive evidence of the facts of possession and dispossession between the parties. (I. L. R. 1 Bom. 624.)

3. The Mámíatdárs Court constituted by Bombay Act III. of 1876 is a Civil Court within the meaning of section 468 of the Code of Criminal Procedure. (I. L. R. 5 Bom. 137. See also Part VIII. (3), Court Fees Act.)

4. Regulation II. of 1827, section 5, clause 2, provides that it shall be competent to the Sadar Diwáni Adálat to call for the proceedings of any *subordinate Civil Court*, and to issue such orders thereon as the case may require. This power, called the Extraordinary Jurisdiction, was transferred to the High Court by section 9 of Statute 24 and 25 Victoria, Cap. 104.

The Mámíatdárs' Courts constituted under Bombay Act V. of 1864 were expressly declared by that Act to be the same Courts which are referred to in Regulation VI. of 1830 as subordinate to the Sadar Diwáni Adálat.

The High Court has, therefore, power to set aside an order made by a Mámíatdár under Bombay Act V. of 1864 (*Mahádáji v. Sonu*, 9 Bom. H. C. Rep., 249). The effect of Bombay Act III. of 1876 has not been to divest the High Court of the power of superintendence and revision which it exercised over Mámíatdárs' Courts previously to the passing of the Act.\*

Such Courts have jurisdiction in a town or city within the táluka, and over houses, which term is included in "premises" in section 5. (*Bái Jamna v. Bái Jadav*, I. L. R. 4 Bom. 168.)

The Mámíatdár has power under Bombay Act III. of 1876—

- to award immediate possession,
- to restore a use,
- to grant an injunction.

He cannot pass any other order in respect of the dispute between the parties. If at the commencement of the trial the plaintiff should appear without his witnesses and express his readiness to withdraw his plaint, the Mámíatdár would be justified in rejecting the plaint under section 13 of the Act.

\* Section 622 of the Code of Civil Procedure (Act X. of 1877, gives the High Court power to call for the record of any case) in which no appeal lies to the High Court, if the Court by which the case was decided appears to have acted without jurisdiction, or illegally, or irregularly.

This section would appear to apply to ordinary Civil Courts and not to Mámíatdárs' Courts, which are, however, *subordinate Civil Courts* within the meaning of section 2 of Reg. II. of 1827, which is still in force.

The ruling of the High Court in *Bái Jamna v. Bái Jadav* does not refer to section 622 of the Civil Procedure Code, but follows the ruling in *Mahádáji v. Sonu*.

A distinction is drawn in Bombay Act III. of 1876 between Mámíatdárs' Courts and ordinary Civil Courts, and a peculiar procedure laid down therein for the former.

It appears, therefore, that although Mámíatdárs' Courts are in some senses and for certain purposes Civil Courts, they are not civil Courts to which the provisions of the Civil Procedure Code can be held applicable.

If the plaintiff should be present with his witnesses and signify his intention of not going on with the case, the Mámíatdár should examine him as a witness and on the evidence of his own statement record a finding on each issue in favour of the defendant and then reject the plaint under section 15 of the Act.

If the plaintiff and defendant come to an arrangement between themselves, the Mámíatdár should examine the parties and then, if possible, record a finding on the issues in accordance with the terms of the arrangement, and decide whether his order should be one rejecting the plaint or any one of the three orders above mentioned. If the agreement or compromise is of such a nature as not to admit of his passing any one of the three orders above mentioned, he should reject the plaint.

The Mámíatdár has no authority to pass any other order in accordance with the terms of an agreement or compromise between the parties, and no such order would be legally binding on the parties.

The following illustrations will be useful :—

(a) Plaintiff A. sues defendant B. for immediate possession of a house. At the time of the trial they both are present with their witnesses. But B. says he is willing to pay A. rent if he is left in possession; A. consents to this. It is quite clear that B. really admits the claim, and therefore the Mámíatdár should record a finding on the issues in favour of A. and award him immediate possession, leaving it to A. to accept B. as a tenant if he chooses. The Mámíatdár cannot order A. to leave B. in possession as a tenant.

(b) The plaintiff A. and defendant B. both appear with their witnesses. They put in an agreement in compromise of the suit that the Mámíatdár should pass an order that the parties had settled the dispute out of Court and each party should bear his own costs. The Mámíatdár should pass a decree rejecting the plaint, and as the costs must follow the decree, should direct the plaintiff to pay the costs. The Mámíatdár cannot divide the costs or order each party to pay a proportion thereof, but he must leave it to the parties to do this amongst themselves.

It will no doubt prevent any misunderstanding if the Mámíatdárs are careful to bear in mind that their procedure under the Act is intended to be as simple as possible and must not be elaborated by following the provisions of the Civil Procedure Code. They should pass no order that is not strictly in conformity with the Act. (G. R. 5949 of 10th October 1881.)

6. The provisions of sections 328 to 331 of the Code of Civil Procedure are not applicable to the decisions of the Mámíatdárs' Courts established under the provisions of Bombay Act III. of 1876,

and unless such application of the provisions of that Code is expressly enacted in the latter local law, it is not open to the Mámlatdárs to follow the procedure laid down in those sections.

The decision of the Mámlatdár is good, not only against the defendant, but the whole world; and, as the village officers are bound under section 17 of Bombay Act. III. of 1876 to give effect to the Mámlatdár's decision by putting the plaintiff in possession, any resistance or obstruction on the part of any person will render such person liable to punishment under the Indian Penal Code.

A person thus compelled to give up possession to the plaintiff has his proper remedy in a civil suit. (G. R. 1673 of 11th March 1882.)

7. A Mámlatdár's Court has jurisdiction to take cognizance of a plaint in which a party in possession of land sues for an injunction against a person who obstructs him in erecting a house on the land. The Mámlatdár should determine at the hearing whether the acts complained of constitute a disturbance or obstruction of possession or enjoyment of the plaintiff, and if it is proved that the defendant was acting within his rights the suit will be dismissed. (G. R. 4596 of 14th July 1882.)

8. The fees chargeable on notices, summonses, warrants of arrest in Mámlatdárs' Courts are the same as those prescribed for revenue courts. (See the Additional Rules in part X. of this Compilation.)

### THE TREASURE TROVE ACT, 1878.

1. Section 19, Bombay Act VIII. of 1867, is intended primarily to apply to lost or strayed property which is usually made over to the charge of the police because the finder has no claim to it. When the law as to treasure trove was in a state of uncertainty, it was perhaps expedient for any person finding hidden treasure to make over charge of it in the same way to the police patel, and before the passing of Act VI. of 1878 it might perhaps have been argued that it was the duty of the police patel to take charge of such treasure. But *leges posteriores leges priores contrarias abrogant*, and so far as regards treasure trove the special provisions of Act VI. of 1878 must be held to supersede those of sections 19 of Bombay Act VIII. of 1867, even if it be correct to argue that the latter enactment was formerly applicable to such treasure. Now, moreover, it seems to be scarcely right to regard treasure trove as "unclaimed property," because Act VI. of 1878 gives the finder a very considerable claim thereto if it turns out to be ownerless. (G. R. 6837; J. D., of 9th October 1880).

2. When the Mámlatdárs were appointed under section 3 of the Act to perform in their several charges the functions of Collectors, they became Collectors for all the purposes of the Act, and Gov-

ernment cannot lawfully restrict or limit the power which they are invested with. If the finder of treasure of any value over ten rupees gives notice to the Mámlatdár, that officer is bound by law to follow the procedure laid down by the Act. Rules regulating procedure can be made, but none can be made in restraint of those powers. The Mámlatdárs' proceedings should be closely and carefully watched by the Collectors. (G. R. 2390 of 23rd July 1881.)

3. There is no express provision in the Treasure Trove Act, 1878, for the case of treasure found hidden in soil the ownership of which vests in Government, as for instance, a public road, which under section 37 of the Land Revenue Code, 1879, is the property of Government.

Section 5 of the Treasure Trove Act provides that when the place in which the treasure was found belongs to some person other than the finder, the Collector shall serve on such person a special notice to the same effect as the notification in the *Government Gazette*; and if such person appears and claims a share as owner of the place, the Collector is required to apportion the said person one-fourth and the finder three-fourths of the treasure.

It appears, therefore, that according to the Act a notice ought to be served on Government and a formal appearance made on behalf of Government before the Collector, in order to warrant a division of the property between Government and the finder; otherwise the right of Government must, under section 6 of the Act, be considered forfeited.

The following rule of procedure has been published and should be observed in future:—

“In exercise of the power conferred by section 19 of the Indian Treasure Trove Act, 1878, the Governor in Council is pleased to make the following Rule:—

“In cases in which treasure is found hidden in soil the ownership of which vests in Government, the Collector making the inquiry under the Indian Treasure Trove Act, 1878, shall serve the special notice in writing required by clause (b) of section 5 of the Act on the Government Pleader of any Civil Court within the limits of the jurisdiction of which the treasure has been found, or on any officer who may be appointed by Government as agent in this behalf, and such Government Pleader or officer shall, except in cases in which the treasure is less than one hundred rupees in value, appear on behalf of Government before the Collector making the said enquiry on the day mentioned in the said notice.”

Attention is drawn to Government Resolution No. 3269 of the 29th October 1878, regarding the supply of coins to learned societies. (G. R. 255 of 27th January 1882.)

## THE MUNICIPAL TAXATION ACT, 1881.

In exercise of the powers conferred by section 3 of Act XI. of 1881 (The Municipal Taxation Act, 1881), the Governor General in Council is pleased to prohibit the levy by any Municipal Committee upon the persons described below of taxes of the following kinds :—

*Persons exempted.*

All persons exclusively in military employ, or belonging to any department directly attached to the Army or to the Public Works Department, Military Branch, being persons subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, and compelled by the exigencies of military duty to reside within the limits of a Municipality.

*Taxes from the operation of which exemption is granted.*

- (1) Municipal taxes on salaries.
- (2) Municipal taxes on professions, trades, callings, officers or appointments.
- (3) Municipal taxes on horses, mules, or ponies kept for military duty.
- (4) Municipal tolls leviable on any ferry or road in respect of animals or vehicles kept or used for military duty.

In exercise of the power conferred by section 24 of Act III. of 1880 (The Cantonments Act, 1880), the Governor General in Council is pleased to declare that in any Cantonment situated in British India which may have been, or may in future be, brought under the operation of a Municipal Act, the following classes of persons shall, when on duty in such cantonment, be exempted from the operation of taxes of the following kinds :—

*Persons exempted.*

All persons exclusively in military employ or belonging to any department directly attached to the Army or to the Public Works Department, Military Branch, being persons subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War.

*Taxes from the operation of which exemption is granted.*

- (1) Municipal taxes on salaries.
- (2) Municipal taxes on professions, trades, callings, offices, or appointments.
- (3) Municipal taxes on horses, mules, or ponies kept for military duty.

(4) Municipal tolls leviable [on any ferry or road in respect of animals or vehicles kept or used for military duty.

2. In further exercise of the power conferred by the same section, the Governor General in Council is pleased to prohibit the levy, in any cantonment in British India, of any municipal tax whatsoever on public property, such as animals or vehicles.

3. In this order the expressions "municipal tax," "municipal taxes," and "municipal tolls," include any tax or toll imposed by virtue of the provisions of a Municipal Act under the operation of which any cantonment may have been, or may in future be, brought.

**RULES FOR THE CUSTODY, DISTRIBUTION  
AND SALE OF POSTAGE STAMP  
LABELS, &c.**

I.—There shall be three central depôts for postage stamps in charge of the Superintendents of Stamps at Madras, Bombay, and Calcutta. These central depôts shall maintain\* a stock of postage stamps sufficient for two years' consumption. The Superintendents of Stamps in Madras and Bombay shall for this purpose forward, not later than the last week of September† in each year, their respective indents to the Superintendent of Stamps in Calcutta, who will include them in his general‡ consolidated indent for stamps of all descriptions, showing separately the demand for each of the three presidencies. This general consolidated indent shall be submitted to the Government of India in the Department of Finance in time for transmission to the Secretary of State by the 1st of November§ in each year. The Superintendent of Stamps, Calcutta, shall further forward§ within the first week of October, to the Director-General of the Post Office of India, a copy of the section of the indent relating to postage stamps. Supplies from central to local depôts shall be issued on credit.

\* Secretary of State's Financial Despatch No. 125, dated 12th April 1877.

† Government of India, Department of Finance, No. 972, dated 26th February 1880.

‡ Government of India, Department of Finance, No. 3217, dated 11th October 1880.

§ Government of India, Department of Finance, No. 3315, dated 16th October 1880.

*Supplies from Central Depôts.*

II.—Postage stamps for the Madras Presidency, including Mysore, and the local depôts subordinate to Madras, shall be supplied by the Superintendent of Stamps at Madras on the indent of officers in charge of local depôts.

III.—Postage stamps for the Presidency of Bombay, including Sind, Berar, the Central Provinces, and local depôts subordinate to Bombay, shall be supplied by the Superintendent of Stamps at Bombay on the indent of officers in charge of local depôts.

IV.—Postage stamps for the Bengal Presidency, including the North-Western Provinces, Oudh, the Punjab, Central India, Rajpootana, Assam, and British Burmah, and local depôts subordinate to Calcutta, shall be supplied by the Superintendent of Stamps at Calcutta on the indent of officers in charge of local depôts.

*Local Depôts.*

V.—Every treasury throughout India, including those attached to political, customs and salt agencies, shall be a local depôt for the sale of postage stamps, provided that the value of the stamps sold at one time to any purchaser shall not be less than Rs. 5,



and shall not include any fraction of a rupee. At any station at which there is a Collector of land revenue, neither a salt agent nor Collector of Customs shall be entrusted with the custody and sale of postage stamps. All sales under this rule will be for cash on delivery; and when the purchaser is one of those who are required to retail stamps under Rule VIII (not being a person employed in a Government treasury), or is one specially authorized under Rule IX, a discount of one-half anna per rupee will be allowed. But to purchasers other than the above, no discount will be allowed; and officers in charge of local depôts must see that discount is not allowed except to the privileged officers above referred to. The sale of ordinary envelopes and postcards shall be subject to the same conditions, except that they shall be sold in packets containing sixteen each, portions of a packet not being saleable. The price of each packet shall be the value of the stamps borne by the envelopes or postcards contained in it, the discount (if any) being calculated on that value.

The preceding rule is only partially applicable to "soldiers' envelopes," which will be sold in complete packets only in such treasuries as may be selected for the purpose by the Director-General of the Post Office in communication with the military authorities. Further, on these envelopes *no discount will be allowed*, and the *charge per packet will include the cost of the envelopes*, i.e., 12 annas for the value of the sixteen 9-pie stamps and 2 annas for the cost of the envelopes, or a total of 14 annas per packet.

The preceding rule is also only partially applicable to "service stamps," which may be sold *only to Government officials, on a written application accompanied by payment of the value in cash; such sales are without restriction as to a minimum amount and no discount is allowed.* A receipt containing in detail the gross value of each description of service postage stamps sold will be granted by the treasury officer for the amount paid to him. The conditions in this clause are also applicable to service post-cards, with the exception that they shall be sold only in complete packets containing 32 each, portion of a packet not being saleable.

Certain Government treasuries have been specially authorized by the Director-General of the Post Office to sell service stamps to specified particular officials of specified Native States and for such sales, as well as for sales which may be made under future special instructions of like character, the conditions mentioned in the preceding clause shall apply.

VI.—A supply equal to the probable consumption for five months of the district attached to each local depôt shall be kept in each; and as soon as the number in store has fallen below the number expended during the preceding six months, the Collector, or  
 \* Form. other officer in charge of the depôt, shall indent\* on the central depôt of his Presidency for a number equal to the consumption of the last three months, for

for which accounts have been rendered to the central depôt of the Presidency. If by any accident the stock of stamps of any value should run short before the receipt of a fresh supply from the central depôt the officer in charge of the treasury will indent on neighbouring districts for a quantity sufficient to meet the demand, which may be supplied or not, according to the discretion, and on the responsibility of the officer indented on, with reference to the wants of his own district. It will be the duty of the Superintendent of Stamps of the Presidency to report to the Director-General of the Post Office, for the orders of Government, every occasion on which it may appear, from the monthly statement or otherwise, that the store of stamps of any particular value in any district has fallen below the authorized amount.

*Branch Depôts.*

VII.—Every branch treasury and every tehsil treasury shall be a branch depôt for the sale of postage stamps under the conditions described in Rule V. It will receive its stamps from the local depôt to which it is subordinate, keeping always in store a supply sufficient to meet the probable demands of one month, estimated according to the average of former sales. It will keep an account of sales in the same form (3) hereafter prescribed for the treasurer's account, and will indent for supplies in the same form (4) as hereafter prescribed for the treasurer's indent. It will render an account monthly to the local depôt in Form 6A immediately on the expiration of the month.

*Retail sale of Stamps.*

VIII.—A supply of stamps *for sale by retail* shall be kept available at every post office, tehsildaree, thana, and every police station at which letters are received for despatch, and with every licensed stamp-vendor; and it shall be the duty of the officer, to whom the person in charge of any of the above-named places is subordinate, to take steps to ensure that the supply kept on hand is at all times equal to at least one week's demand. Persons in charge of the above-mentioned places will receive discount on purchases under Rule V. Superintendents and Inspectors of post offices, within their respective jurisdictions, and any other officers of the post office specially deputed for that purpose or authorized on that behalf by the Post Master General or officer exercising the powers of Post Master General, are empowered to examine the stock of postage stamps kept by a licensed stamp-vendor.

This rule does not apply to "service stamps" or to "soldiers' envelopes."

By the term "licensed vendor," as used above, is meant a stamp-vendor licensed under rules framed by the local Government in accordance with section 55 of the General Stamp Act (I of 1879).

*Authorization of certain retail vendors other than  
the above.*

IX.—A district officer may authorize the grant of discount at half-anna per rupee on purchases under Rule V to any person who is a *bonâ fide* retail vendor of postage stamps, although he may not be one of those required to retail them under the above rule. Such authority shall be given in writing, and must be produced by the person authorized when claiming discount on purchases; the authority will hold good for only 12 months from the date on which it is given, and may be revoked at any time at the discretion of the district officer. No such authority may be given to any person employed in a Government treasury. The authority so given may, at the discretion of the district officer, be made subject to conditions to be expressed in the writing of authority in any or all of the following respects, *viz.*:—the maintenance of a sufficient supply of all or any specified denominations of postage stamps for retail: a particular shop, place, or locality, or particular shops, places or localities, in which postage stamps are to be exposed for sale: the days and hours during which they are to be so exposed, and any restriction upon the sale in shops, places, or localities other than those specified. A register showing the name, residence, and occupation of every person so authorized, and the date of the authority, shall be kept by the district officer. Superintendents and Inspectors of post offices within their respective jurisdictions, and any other officers of the post office specially deputed for that purpose or authorized on that behalf by the Post Master General or officer exercising the powers of Post Master General, are empowered to examine the stock of postage stamps kept by any person so authorized.

The term "district officer," as used above, includes the political officer in a Native State who may grant authority to *bona fide* retail vendors as provided in the above rule.

*Custody of Stamps in Local Depôts.*

X.—The bulk of postage stamps in store at any local depôt shall be kept in parcels, containing a known number of sheets, in the treasury or other secure place, in one or more strong chests or presses, under double locks,—the key of one lock of each chest or press always remaining in the hands of the Collector or other officer in charge of the stamps, and the key of the other in the hands of the treasurer.

XI.—The remainder of the stamps in store shall be in the hands of the treasurer, and shall not exceed the probable demand of fourteen days, estimated according to the average of former sales.

XII.—The treasurer shall keep a daily account of receipts and sales\* in the vernacular of the district, in

• Form 3.  
which the transactions of each succeeding day shall be entered consecutively, a balance being struck at the close of each day, and attested by the initials of the officer in charge of the treasury.

XIII.—On the first open day of each month, and on every Monday during the month, the treasurer shall prepare in the vernacular, and submit to the officer in charge of the postage stamps, an indent\* for a supply of postage stamps for the following week. The indent, after being approved or altered by the officer in charge of the postage stamps, shall be signed by him, and complied with as directed in the following rule. The indent thus signed shall be the warrant for the issue of the stamps.

XIV.—The officer in charge of the postage stamps shall cause the store under double locks to be opened, and the required number to be counted and delivered to the treasurer in his presence. A store-book† shall be kept in English, in which the number and value of the stamps delivered to the treasurer shall be entered, and a balance struck at the time of delivery. This balance will be attested by the initials of the officer in charge and of the treasurer, both of whom shall invariably be present during the whole time that the store under double locks, or any part of it remains open. The deliveries shown in the store book, will agree with the indent as approved.

XV.—If the treasurer require stamps at any intermediate time, the same process will be observed as is prescribed in the two preceding rules.

XVI.—Stamps will be supplied from the store under double locks only to the treasurer and to branch depôts, and on indent from them respectively. Sales should be made not out of store, but from the supply in the hands of the treasurer or the supply in branch depôts.

XVII.—As soon as possible after the arrival of a despatch of postage stamps from a central depôt, or from any other local depôt, the packets or boxes are to be opened, one at a time, in the presence of the officer in charge of stamps. The stamps contained in each box or packet are then to be immediately counted and compared with the invoice,‡ which after being received, will be returned by the first post to the depôt whence they were despatched. Unless the officer in charge of the stamps can certify that the stamps contained in any given packet or box were immediately counted by himself personally, or in his presence, he will be held responsible for the value of any that may be found deficient. The stamps are then to be placed in the store under double locks and entered in the store-books, and no stamps are to be delivered to the treasurer or sold to any party without being first brought into store.

XVIII.—Officers in charge of stamps will have the stamps in store, both those under double locks and those in the hands of the treasurer, counted in their presence on the last open day of September and March in each official year, and will certify having

done so in the following terms at the foot of the monthly accounts of sales and stock\* for those months furnished to the Superintendent of Stamps:—

\* Form 6. " I do hereby certify that I have personally counted the number of sheets of postage stamps of the value of four annas each and upwards in store on \_\_\_\_\_ 1880, and that their actual value is † \_\_\_\_\_; and I also further certify that the number of complete sheets of postage stamps of a lower value than four annas each, in store on the same date, has been counted by the treasurer in my presence, and that their actual value is † \_\_\_\_\_; and I do further certify that from the report of the treasurer made to me this day, the actual value of the stamps in his hands amounts to † \_\_\_\_\_; and that the rules prescribed by the orders of the Government of India, dated 16th September 1880, are duly observed."

*N.B.*—In cases where portions of the stock of stamps are in charge of Tehsil Officers, it will be necessary to obtain a certificate from each of the Tehsildars for the postage stamps in his charge and attach these certificates to the certificate for head-quarter store.

*Officer in charge of Stamps.*

† NOTE.—The amounts to be entered in words as well as figures.

XIX.—On occasions of transfer of charge, postage stamps will be made over in the same manner, and under the same precautions, as the cash balance in the treasury.

XX.—The officer in charge of each local depôt will submit, within the first week of each month, an account ‡ to the Superintendent of Stamps of his Presidency, showing the balance in hand at the sudder and branch treasuries at the close of the preceding month, and the sales effected during that month.

*Returns to be made by Central Depôt, &c.*

XXI.—The Superintendent of Stamps, of each Presidency will, at the commencement of each month, in addition to any account required by the Accountant General, furnish the Director-General of the Post Office with a memorandum § showing the number of stamps of each description distributed by him during the preceding month and the number remaining in stock at the close of the month.

The Superintendents of Stamps of Calcutta, Madras, Bombay, Lahore, and Nagpur, will, as soon after the close of each month as possible, furnish the Accountant General to the Post Office with a memorandum || showing the total amounts to the actual sales in each local depôt and of all the local depôts supplied by them.

NOTE.—The forms referred to in these Rules are too bulky to be inserted in this compilation, and are not necessary in it.

## RULES REGARDING CHARITABLE DISPENSARIES.

### *Amount of Government grant, and the conditions on which it will be given.*

1. Government will aid in the establishment of Charitable Dispensaries only when the Municipality of a Town or Local Fund Committee or any private individual agree to share the expenses, and thereby evince their sense of the value of such institutions.

2. The Government grant-in-aid shall, as a rule, be regulated according to the population of the town in which the Dispensary is to be established, and shall not exceed—

Rs. 2,000 a year in towns with a population of ten thousand and upwards.

Rs. 1,200 a year in towns with a population of more than five, but less than ten thousand.

Rs. 600 a year in smaller towns.

But in no case shall the Government contribution exceed one-half the total cost as estimated by the Surgeon-General. The subscription when once fixed will not, as a rule, be altered, except for strong reasons.

3. Where Dispensaries situated in small towns are of benefit to the surrounding district the population test will not be strictly applied. Cases of this kind will be treated specially on a representation of the facts.

4. The first supply of all needful surgical and other instruments will be issued gratuitously from the Public Stores, agreeably to the annexed list, marked A. ; and further, upon all medicines provided, only 10 instead of 45 per cent. advance will be charged. With these exceptions the Government contribution on account of every kind of expenditure shall be limited to a fixed sum in accordance with Rule 2. The list of articles include the fullest supply which can be permitted, but it is in all cases left to the discretion of the Deputy Surgeon-General of the Circle in which the Dispensary is situated so to modify the list as to prevent needless expenditure.

5. The Municipality, community, or individual (as the case may be) shall provide a suitable house, both as regards its position in respect to the sanitary state of the place and neighbourhood, and its adaptation for the purposes of a Dispensary, which shall be subject to the approval of the Deputy Surgeon-General for Hospitals of the Division or any officer to be appointed by him. The requirements for a Dispensary Building are, a receiving-room for patients, which may be part of the veranda protected from sun and rain, a surgery, a small room for the private examination of patients, a small room for males and one for females, each to contain four beds ; quarters for the Assistant Surgeon or Hospital Assistant, the native pupils, and servants' cook-room, latrines and a dead-house.

2 Presses for medicines.  
2 Tables for compounding, writing, &c.  
1 Table for operations.  
8 Cots taped.

6 Benches.  
6 Chairs.  
Shelves, fittings, water and cooking vessels.

6. They shall also furnish all necessary articles of furniture, &c., agreeably to the list marginally noted.

7. Applications for the establishment of Dispensaries shall be made to Government either through the Surgeon-General, Indian Medical Department, or through the Civil authorities of the district. In the latter case, the Civil authorities shall, in the first instance, address the Surgeon-General or forward the application to Government through him.

8. In forwarding the application to Government, the Surgeon-General shall report whether, in his opinion, the application may be sanctioned, and whether there is a Hospital Assistant or Assistant Surgeon (according as the importance of the town may seem to require) available for the duty.

9. The sanction of Government is necessary to the establishment of all Dispensaries which may indent on Government for the supply of medical stores or claim any of the benefits of these Rules.

### *Dispensary Committees.*

10. When Government have sanctioned the establishment of a Dispensary, a Local Committee will be formed to manage the institution and keep and look after its funds.

11. In towns or cities where there is a Municipality, the Municipal Commissioners shall be the Dispensary Committee of the town or city.

12. In towns and cities where there is no Municipality, the Talnka Local Fund Committee shall be the Dispensary Committee. In such cases the Collector of the district in which the Dispensary is situated shall appoint a Chairman of the Dispensary Committee, and may appoint any one to be a member of the Committee who takes an interest in the institution.

*Duties and powers of Dispensary Committees.*

13. It shall be the duty of the Dispensary Committee to see that the Registrars, &c., supplied to the Medical Officer by the Deputy Surgeon-General are regularly and carefully written up, that the returns are regularly sent, the Dispensary hours strictly observed, and that patients are not neglected or ill-treated so as to cause popular dissatisfaction. They shall keep a direct general supervision over the conduct of the Dispensary, reporting any shortcomings to the Collector and District Magistrate, who will submit the case for orders to higher authority, if necessary. They shall also keep an account of the Dispensary Fund, which will consist of the Government, Local Fund, Municipal and other subscriptions, all moneys realized by the sale of medicines, &c. It will be their duty carefully to watch over the finance of the institution, to see that it is managed with economy, and that the expenditure is kept within the funds at their disposal.

14. It is desirable that the Dispensary Committee shall endeavour to supplement Government, Local Fund, or Municipal contributions by raising endowments, donations, or subscriptions, so as to form a Dispensary Endowment Fund.

15. The object of the fund is to accumulate a capital sum the interest of which only shall be used for the expenditure of the Dispensary, and which will, it is hoped, gradually render the Dispensary wholly or partly independent.

16. The following instructions relative to the financial arrangements of the Dispensaries are to be strictly attended to :—

- (1.) The accounts of all Dispensaries to which Government contribute are to be kept in a uniform form, both for receipts and disbursements, which the Surgeon-General will lay down.
- (2.) Annual accounts like these laid down in paragraph 22 of the Rules of 1861 must be sent through the Deputy Surgeon-General to Government as soon as possible after the 31st March annually, giving a complete abstract of receipts and disbursements during the year, the balance at the Committee's disposal and other detailed particulars in a form to be laid down by the Surgeon-General.
- (3.) All payments due to Government servants lent to Dispensaries must be made at same rates, and with the same regularity and punctuality, as if they were in ordinary Government employ.

17. For the purposes mentioned in Section 13, the Dispensary Committee shall depute two of their number to visit the Dispensary at least once a month.

18. The Committee shall render to the Collector and District Magistrate quarterly reports of their visits in accordance with the preceding section. It is the Collector's duty to see that the submission of these is not overlooked.

19. The appointment, fining, and dismissal of all Dispensary servants, except members of the Indian Medical Department, who are under the control of their departmental superiors, shall rest with the Committee. All pay abstracts shall be forwarded to the Deputy Surgeon-General for countersignature in the first instance ; but the contingent bills should be paid by the Committee on the countersignature of the Chairman alone.

In Dispensaries other than Grant-in-aid Dispensaries, the countersignature of the Deputy Surgeon-General is necessary on contingent bills.

*Correspondence how to be conducted.*

20. All communications on medical matters between the Assistant Surgeon or Hospital Assistant and the Deputy Surgeon-General of the circle in which the Dispensary is situated should be sent direct to the Deputy Surgeon-General. In matters affecting the expenditure and control of funds and administration of the Dispensary, the Chairman of the Dispensary Committee or Municipality, and the Collector or his Assistant or Deputy in charge of the taluka, shall be the medium of communication.

21. In forwarding to the Surgeon-General, Indian Medical Department, the annual report of the Assistant Surgeon or Hospital Assistant in charge of a Dispensary, the Deputy Surgeon-General shall report fully on his conduct and qualifications and on the successful working or otherwise of the Dispensary, adding such suggestions as he may think it advisable to offer which may tend to increase the efficiency of the institution. The report shall, prior to its transmission to the Surgeon-General, be sent to the Collector of the district for such information and extract as the latter officer may require for his Annual Administration Report.

*Inspection of Dispensaries.*

22. The Deputy Surgeons-General shall visit each Dispensary in their respective circles at least once in the year and as much oftener as they may be able to arrange for, especially those on or near a line of railway. They will carefully look into the general as well as medical management of each institution. Civil Surgeons shall also be deputed by the Deputy Surgeons-General to perform this duty when they can be spared from their own duties and when no other expense will be incurred but that which Government may sanction hereafter. They will report the results of the inspection to the Deputy Surgeon-General.

23. The Superintendents of Vaccination are to visit and inspect the several Dispensaries in their districts during the course of their tours, and are to bring to the notice of the Deputy Surgeon-General of the circle any defects or shortcomings which may attract their attention; but they are not authorized to issue orders direct to the Medical Officer in charge of the Dispensary except on matters pertaining to vaccination.

*Internal management of Dispensaries and duties of Medical Officers.*

24. The Dispensary shall, as a rule, be open from 7 to 10 A.M. and from 5 to 7 P.M. for the treatment of ordinary out-patients.

25. The Dispensary shall not be left at all, if possible, at night by the officer in charge; and he shall not, at any time, be compelled to visit out-patients who do not pay him except in urgent cases and where the patient cannot be moved, or when an epidemic is prevailing, or in the case of Government servants entitled to his attendance at home.

26. Payment is only to be demanded on account of medicines or medical advice at the Dispensary, under rules to be laid down by the Dispensary Committee.

27. The number of in-patients to be under treatment at one time will be limited by the means at the disposal of the Committee, and the room available in the Dispensary. Where it is only practicable to admit a few, the most interesting cases only should be taken in subjects of surgical operations, or of severe injuries.

28. The dissemination of vaccination shall be considered an essential part of the duties of Assistant Surgeons and Hospital Assistants in charge of Dispensaries, for which purpose days and hours are to be fixed, and correct registers kept according to prescribed forms.

29. It shall be the duty of an Assistant Surgeon or Hospital Assistant in charge of a Dispensary when there is no other Medical Officer at the station, to examine all corpses sent to them by the Judicial authorities for medico-legal examination, upon which they are to make the usual report.

*Registers and Returns.*

30. Registers of sick, &c., are to be regularly kept, agreeably to the usual forms.

31. Every sick applicant, on his name being entered on the Register, shall be provided with a paper according to Form 92 of the Medical Regulations, on which the prescriptions and, in important cases, the symptoms shall be noted at each visit; on the medicine being dispensed, the Case Diaries shall be retained in the Dispensary, arranged and re-issued to the applicant at the next visit.

32. Separate monthly returns of in and out-patients in accordance with Form No. 50 of the Medical Regulations shall be transmitted through the Deputy Surgeons-General to the Surgeon-General, Indian Medical Department.

33. The Annual Reports are to be carefully drawn up, and punctually submitted on 1st April; they should comprise—

- (1) The medical topography of the locality; this is to form the introductory part of the early reports of the dispensary.
- (2) Leading facts of the meteorological observations made during the year, and general remarks on the weather of each month.
- (3) An annual return according to Form No. 50.
- (4) A notice of the different forms of disease, arranged in the order of Form No. 50.
- (5) The diaries of six of the most interesting and important medical and surgical cases which have occurred during the year, either among in or out-patients.
- (6) The Department of Vaccination is to be noticed, numbers vaccinated, caste, sex, age, condition of lymph, &c., in accordance with forms and instructions to be issued by the Superintendent-General of Vaccination.

*Medicines and Instruments.*

34. The cost of the supplies of Europe and country medicines, and of contingencies, pay of Assistant Surgeon or Hospital Assistant, and of servants, &c., shall be defrayed out of the general funds of the institution, comprising interest on endowments, Government, Municipal, Local Fund grants, local subscriptions and receipts of all kinds. Government being only a subscriber all excess beyond the Government contribution must be paid by the Committee from their funds.

35. Dispensary Committees will have their own rules as to whether the dieting of in-patients should be at the Committee's charge or otherwise.

36. Indents for medicines and instruments are to be countersigned by the President, or the Vice-President of the Municipality, or by the Collector or his Assistant or Deputy and submitted to the Medical Storekeeper through the Deputy Surgeon-General. In all cases they must be prepaid.



37. It is to be understood that the instruments provided by Government on the first establishment of a Dispensary are a free gift, and become absolutely the property of the Dispensary, to be disposed of in the manner the Committee may think best. But they cannot be returned into store in exchange for others, nor can any instruments be thereafter obtained from the Public Stores, except upon payment.

38. Repairs to instruments are to be allowed to be made by the Cutler to the Medical Stores, Bombay, free of cost, for which purpose the instruments are to be sent to Bombay, the cost of any articles expended in such repairs being met by the Dispensaries concerned.

39. As the expenditure of medicines is a costly item in the accounts of Charitable Dispensaries, care is to be taken that in no case shall an expensive medicine be indented for which can be substituted by a less costly one. To guide Deputy Surgeons-General in exercising their control over such expenditure, the Examiner of Medical Accounts shall forward to them yearly a priced invoice of all drugs and medicines in store.

*Miscellaneous.*

40. Assistant Surgeons placed in charge of Dispensaries receive Rs. 100 in addition to the pay of their grade, if belonging to the 3rd class, and of Rs. 150 if belonging to the 2nd or 1st class. In like manner, certain Hospital Assistants educated in the Vernacular Class are allowed Rs. 30 in addition to the pay of their rank, so long as they remain in the third class. In estimating the cost of a Dispensary, however, for the purpose of calculating the amount of the grant-in-aid towards it, the pay and allowances of a 3rd Class Assistant Surgeon alone shall be taken into account, the cost of the increased emoluments of a 2nd or 1st Class Assistant Surgeon being met by Government whenever occasion arises.

41. In cases where Dispensaries have been founded by private benefactors, and Government have agreed to support the Dispensary on certain terms, those terms will be adhered to.

A.

*List of Surgical Instruments, &c., to be supplied to Charitable Dispensaries by Government when first established.*

Bougies, Duran's ... ..	Case 1	Thermometer, Bath ... ..	No. 1
Catheter, Gum, elastic, small ...	No. 6	Tooth Instruments... ..	Case 1
Cupping Instruments, large ...	Case 1	Urinometer ... ..	" 1
Capital Instruments, large ...	" 1	Trusses, Rupture, right and left ...	No. 2
Hydrocele Apparatus ... ..	" 1	Urinals, Pewter ... ..	" 1
Lancets, Bleeding... ..	No. 3	Bleeding Cup ... ..	" 1
Midwifery Instruments ... ..	Case 1	Bolus Knives ... ..	" 2
Needles, exploring... ..	" 1	Infusion Pots, of sizes ... ..	" 2
Pocket Instruments, large ... ..	" 1	Measures, Glass, of sizes ... ..	" 2
Post-mortem Instruments, large ...	" 1	Do. Minim ... ..	" 1
Scissors, Common ... ..	No. 1	Mortar (Brass) and Pestle ... ..	" 1
Splints, Leg ... ..	Set 2	Do. Wedgewood ... ..	" 1
Do. Arm ... ..	" 2	Do. Glass ... ..	" 1
Do. Liston's ... ..	No. 1	Rain Gauge, complete ... ..	" 1
Do. Plain ... ..	Set 1	Sauce-pans, Tin ... ..	" 2
Do. Pasteboard ... ..	" 1	Scales and Weights, small and	
Do. Leg ... ..	" 1	middle size.	
Do. Thigh ... ..	" 1	Spatula, Elastic ... ..	No. 1
Do. and Leg, Desault's ... ..	No. 1	Do. Fire ... ..	" 1
Stethoscopes ... ..	" 1	File, Dutch ... ..	" 1
Syringe, Elastic, Ear ... ..	" 1	Thread, Flax and Silk sufficient for	
Do. Stomach-pump ... ..	Case 1	a year's consumption.	
Do. Glass, for Hydrocele ... ..	No. 1	Bed-pan, Pewter ... ..	No. 1
Do. Pewter, 1 lb. ... ..	" 1	Do. Wedgewood ... ..	" 1
Do. do. ½ lb. ... ..	" 1	Pewter measure, of 8 ozs....	" 1
Do. Penis ... ..	" 3	Do. do. of 2 ozs....	" 1
Do. Uterus ... ..	" 1	Funnel, Pewter ... ..	" 1

RULES FOR THE GUIDANCE OF JUDGING COMMITTEES OF  
DISTRICT HORSE SHOWS.\*

1. Only *bonâ fide* horse-breeders will be allowed to compete for prizes. The Judging Committee will decide as to the eligibility of competitors.

2. A mare of 4 years of age in foal or with foal at foot, the result of having been covered before 4 years of age, will not be eligible to compete.

\* These Rules are applicable to all District Horse Shows except to the "fancy classes" of the Poona Horse Show.

3. No mares or stock will be allowed to compete as "served by Government Stallions," or "got by Government Stallions," unless a certificate to that effect is produced by the exhibitor. These certificates are obtainable from officers in charge of Stallions.

4. Intending exhibitors should, on arrival at the Show, apply to the Secretary of the Judging Committee for a ticket or tickets, as the case may be, stating the class in which they propose to compete.

5. Each ticket will be worn by the animal as a token of the right to compete.

6. When the tickets are given, the Secretary will name the date, hour and place at the Show, when and where horses should be brought for examination. A shamiana (or large tent) or shed, to afford shade to the Committee, within a temporary railed enclosure, should be erected to allow of the members to carefully examine the stock. The public should not be permitted to enter the enclosure during the Committee's proceedings.

7. Prizes will be awarded on the day appointed by the President for the Judging Committee.

8. A certificate (parvána) will be given to each winner whether he takes his prizes in money, khillat, or medal, as he may think best.

9. Discretion is to be used by the Judging Committee in awarding only a portion of prizes to any class, if the stock of that class be not considered worthy of all prizes noted, and the money not awarded may be devoted to the giving of extra prizes in other classes deemed by the Judging Committee as worthy of them, as it is the desire of Government to award the total sum granted, provided *any* of the classes of stock competing are in *any way* worthy of it.

10. The system of marks will be adopted as follows :—

Soundness	...	...	...	...	...	...	25	
Power	...	...	...	...	...	...	25	
Quality	...	...	...	...	...	...	25	
Produce (if any)	...	...	...	...	...	...	25	
						<b>Total</b>	<b>100</b>	
If no produce, the total will be							...	75
All other stock :—								
Soundness	...	...	...	...	...	...	25	
Power	...	...	...	...	...	...	25	
Quality	...	...	...	...	...	...	25	
Action	...	...	...	...	...	...	25	
						<b>Total</b>	<b>100</b>	

Marks for action have not been accorded to mares, as some competing may be too heavy in foal to allow of their action being shown. The Judging Committees are requested to be good enough to attach a return to their reports showing the number of the several marks allotted to winners of prizes.

NOTE 1.—On future occasions, prizes for geldings will be increased in number and value, and those for colts not castrated will be proportionately decreased. To enable a horse to become eligible to compete in the gelding class both testicles must have been excised.

2. The prizes allotted to the class geldings are to be invariably awarded to the best competing irrespective of their worth in other respects. Prizes in this class to be awarded only to stock that have been castrated when in possession of their present owners, *bond fide* horse-breeders, and provided the Judging Committee are satisfied the animals have been castrated with a view of competing for the prizes.

PART XVIII.

SPECIAL LOCAL LAWS.

I.—THE INCUMBERED ESTATES ACTS.

*Rules made under section 6 of Act VI. of 1862.*

The officer or officers who are to be appointed under section 1 of the Act shall prepare the scheme mentioned in section 10 of the Act in the following manner:—

1. The officer or officers shall ascertain the principal sum originally lent by each of the creditors severally, and this sum, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the declaration provided for in section 1 of the Act shall be made, and no further, shall in each case be the amount awarded, but subject to the following conditions:—

I. The amount of interest shall in no case exceed that of the principal.

II. The heir in the second generation of the person who originally incurred the debt to pay the principal only, and no interest.

III. The amount assigned in settlement of bonds held for services rendered by the creditor, to be determined by the Settling Officer after hearing evidence of the service in question.

IV. No interest to be allowed on debts where accounts to the satisfaction of the Settling Officer are not produced.

V. When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI. When no accounts are produced the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII. Interest not to be allowed on account debts in the absence of any specification that it shall be allowed.

VIII.—A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Settling Officer that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Settling Officer, if no such decree had been passed, the amount so awarded may be allowed, provided clause I. of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

2. All payments made by the Tálukdár to any creditor, or profits which have been enjoyed by such creditor, towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from the time of such payment or enjoyment; and the Settling Officer shall be competent to decide on the amount of profits realized under such enjoyment, after examining such proofs as are presented to him.

3. Whenever a bond, a decree, or other claim, has been transferred by sale, gift, or otherwise, from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

4. When profits or income arising from a Tálukdár's estate have been divided into shares, and it has been customary to consider each share separately liable for the debts of the proprietor of that share, a separate settlement shall be made of the debts of each sharer, instead of for the whole estate.

5.—All admitted debts shall be satisfied proportionately in the following order:—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account debts.

6. If the principal of all the debts, with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims, as provided for in Section VII. of the Act, during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Tálukdár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the required limit.

7. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Settling Officer to appoint a Committee of experienced Natives, consisting of three persons, of whom one only shall be in the service of Government, to assist him, and it shall further be competent to the Settling Officer to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Settling Officer may receive to cover all charges arising directly from the special nature of his duties.

8. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties shall consent to the

said schedule in presence of the Settling Officer, it shall be competent to the said officer to accept such schedule without further investigation, and to make it the basis of his settlement.

9. During the period the estate may be under management, the Tálukdár shall not, unless for special reasons to be reported to Government, be displaced from the internal management of his estate, but he shall in regard to every thing relating to the said management, be subject to the supervision of the Settling Officer, who shall be fully authorized to take any steps which he may think advisable to ascertain and secure the full value of the yearly revenues of the estate or estates.

10. In the case of villages or lands held by superior Chiefs in virtue of mortgages or loan transactions, it shall be competent to the Settling Officer, with a view to avoiding undesirable agitation, to effect any compromise with regard to the possession of the village or the land which may meet the consent of both parties.

11. Where Wanta lands which may be admitted by Government to be held as transferable property which the holder may charge or alienate, shall be found to have been at the passing of this Act in the *boná fide* possession and enjoyment of any mortgagee in satisfaction of any claims secured upon such lands, such unsatisfied claims shall be satisfied in full from the rents and profits of such lands on which they are secured, next after any claims of Government on the said lands, and to such amount as shall be proved and established under the foregoing rules.

12. If the creditors shall agree to receive a sum of money from the Government Treasury in immediate satisfaction of all their claims on any estate, it shall be competent for the officer appointed under section 1 of the Act, with the sanction of Government, to order such payment, provided that the creditors shall first severally sign receipts in full for all their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the said Officer for satisfaction under this Act. And all sums advanced by Government under this rule shall be recovered from the estate, in the same manner as other debts due or liabilities incurred to the Crown or Government may be recovered under this Act.

13. The notification of any claim under section 8 of the said Act shall be understood to denote the statement of such claim before the Settlement Officer, accompanied by all such proofs and original documents required under the preceding rules, as it is the intention of the claimant to produce in support of the same. (Extra Rule sanctioned, May 6th, 1863).

14. Advances made with the object of facilitating the settlement of the claims against any talukdári estate brought under the provisions of the said Act shall, when the Governor in Council shall so direct, be chargeable with interest at 5 per cent. per annum. (Extra Rule, Government Resolution No. 2080, June 2nd, 1864).

15. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Governor in Council to make such further award beyond what is permitted by the previous rules as the circumstances shall seem to warrant. (Extra Rule, Government Resolution No. 299, January 25th, 1865).

*Rules under the Broach and Kaira Incumbered  
Estates Act, 1881.*

1. All subordinate officers entrusted under the said Act with the collection, receipt, or custody of moneys, or of any valuable property, shall furnish security to the extent of three years' salary.

2. The order of management and the notices required to be issued under Sections, 7, 12 and 26 of the Act, shall be respectively in the Forms A, B and C, appended to these rules.

3. The Tálukdári Settlement Officer, or other Manager, appointed under the Act, shall make the enquiry prescribed by Section 12, and prepare the Schedule of debts and liabilities and the liquidation scheme, required by Section 17 in accordance with the following rules.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum, or the aggregate of these sums, with 9 per cent. per annum simple interest on the amount of each debt, from the time when each debt was incurred up to the date on which the order of management was published, shall be the amount to be awarded, but subject to the following conditions, (namely):—

(1.)—That the amount of interest shall in no case exceed that of the principal;

(2.)—That the heir in the second generation of the person who originally incurred the debt shall pay the principal only and no interest;

(3.)—That the amount to be assigned in settlement of bonds held for services rendered by the creditor shall be determined by the Manager after hearing evidence as to the nature and extent of the service in question;

(4.)—That no interest shall be allowed on debts, accounts relating to which are not produced to the satisfaction of the Manager;

(5.)—That when the amount of the original principal is not satisfactorily proved, a deduction of 50 per cent. shall be made from the amount of the debt as it stood at the first stage at the which satisfactory proof of the existence of the debt is given;

(6.)—That when no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed;

(7.)—That interest shall not be allowed on account-debts in the absence of any writing showing that interest on such debts should be allowed;

'(7a.)—A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim ; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided clause 1 of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.'

(8.)—That all payments made by the Thákur to any creditor, and all profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the date of the order of management, shall be deducted from the principal sum of the said debt or liability, and interest on the amount so deducted shall be disallowed from the time of such payment or enjoyment, and the Manager shall determine the amount of profits realized under such enjoyment after examining such proofs as may be produced before him ;

(9.)—That if the principal of all the debts due by any Thákur with simple interest at 9 per cent., shall exceed the amount which it is estimated will be available for the settlement of the creditors' claims, subject to the provisions of Section 11 of the Act, during a period of twenty years, no interest shall be allowed on such debts as were not incurred by the present Thákur ; and that if after disallowing interest on such debts the amount necessary to liquidate the whole of the debts be still in excess of the amount estimated to be available for their liquidation, the rate of interest to be awarded on the remaining debts shall be decreased until the aggregate amount of capital and interest payable falls within the requisite limit.

5. Whenever a bond or decree or other claim has been transferred by sale, gift or otherwise from the original holder to any other person, the present holder thereof must support his claim by the same proofs as if he were the original holder.

6.—All admitted debts shall be satisfied proportionately in the following order :—

- 1st.—Money lent on the security of the estate.
- 2nd.—Decreed and bonded debts.
- 3rd.—Account debts.'

7. In deciding what claims are admissible, and to what amount they shall be admitted, the manager may appoint a Committee of experienced natives—consisting of three persons of whom one only shall be in the service of Government—to assist him, and may re-imburse the said Committee their necessary expenses out of percentage of the rents and profits which he may receive to be reserved by him to cover these and similar charges connected with the discharge of his duties.



8. If the creditors of any debtor themselves produce a schedule of the original sums lent by them severally, signed by the debtor, and both parties assent to the said schedule in presence of the Manager, the Manager may accept such schedule without further investigation, and make it the basis of the liquidation scheme.

9. If the creditors agree to accept a sum of money from the Manager in immediate satisfaction of all their claims against the debtor, and the Manager shall determine to borrow money from Government for the purpose of making such payment, the Manager shall, on receipt of the orders of Government sanctioning such loan, order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally pass receipts in full for all their claims, and that if any fraud is subsequently discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under the Act. The interest chargeable on such loan shall be at the rate of 5 per cent. per annum, or at such rate as may be specially fixed by the Manager with the sanction of Government and shall be repayable together with the amount of the loan as provided in Section 11 of the Act.

10. In estimating the amount of cash to be paid under the last rule in immediate satisfaction of admitted claims, the following points are to be considered, (namely) :—

(a.) The income of the debtor, the amount of the debt and the probability or improbability that the creditor would have been able to recover his debt if the Act had not been passed,

(b.) The nature of the particular debt,

(c.) The period for which the debt had been outstanding,

(d.) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively at the present time.

11. If at any time the condition of a Thákur's estate shall be found sufficiently prosperous, the Commissioner may make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to him to warrant.

## APPENDIX A.

*Order of management to be issued under Section 7.*

WHEREAS (here enter the name and description of the applicant in full, and when he is not himself the Thákur, state whether he is the sole heir, or one of the heirs of the Thákur) has made an application to me under Section 4 of the Broach and Kaira Incumbered Estates Act, 1881, requesting that the provisions of the said Act be applied to his case (or to the case of

);  
And whereas upon enquiry it appears to me expedient that the provisions of the said Act should be so applied ;

I do hereby direct that the immoveable property of the said shall be managed and his debts liquidated in the manner provided in the said Act by the Tálukdári Settlement Officer (or by

Dated this  
day of

188

(Signed)

Commissioner, N. D.

## APPENDIX B.

*Notice under Section 12.*

No.

*Station and date.*

WITH reference to the order of the Commissioner, N. D., published at page of the *Bombay Government Gazette* of the 188 , directing that the immoveable property of

be managed and his debts liquidated by me under the provisions of Act XXI. of 1881, I hereby give notice and require under section 12 of the said Act, that all persons having claims against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

The attention of intending claimants is called to the requirements of Section 13 of the said Act.

Description of property, situation, and boundaries.

Tálukdári Settlement Officer,  
(or Manager.)

## APPENDIX C.

*Notice under Section 26.*

No.

*Station and date.*

WHEREAS the management of the immoveable property of was, by order of the Commissioner, N. D., published at page of the *Bombay Government Gazette*, dated the day of 188 , vested in me as the Manager appointed under Act XXI. of 1881, and whereas all the debts and liabilities of the said mentioned in the liquidation scheme framed under the provisions of the said Act have been liquidated as therein provided (or in accordance with the orders of the said Commissioner), notice is hereby given under Section 26 of the said Act, that my management of the said estate will terminate on the

Description of property, situation, and boundaries.

Tálukdári Settlement Officer,  
(or Manager.)

or else the following (as the case may be) :—

No.

*Station and date.*

Whereas the management of the immoveable property of was, by Government notification published at page of the *Bombay Government Gazette*, dated , vested in the Tálukdári Settlement Officer as the Manager appointed under Act XV. of 1871, and whereas all the debts and liabilities of the said mentioned in the liquidation scheme framed under the provisions of the said Act, have been liquidated as therein provided ; notice is hereby given, under Section 26 of Act XXI. of 1881, that the management of the said estate by the undersigned will terminate on the

Tálukdári Settlement Officer.

*Rules under the Sind Incumbered Estates  
Act, 1881.*

1. All subordinate officers entrusted under this Act with the collection, receipt, or custody of moneys or valuable properties shall furnish security to the extent of three years' salary.

2. The notices required to be issued under Sections 12 and 26 shall be in the Forms A and B appended to these Rules.

3. Every Manager appointed under Section 6 of this Act should make the enquiry prescribed by Section 12, and shall prepare the schedule of debts and liabilities, and the scheme for the settlement thereof required by Section 17 in the following manner.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum or these sums, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the order provided for in Section 8 of the Act is published, and no further, shall in each case be the amount awarded, but subject to the following conditions:—

I.—The amount of interest shall in no case exceed that of the principal.

II.—The heir in the second generation of the person who originally incurred the debt, to pay the principal only and no interest.

III.—The amount assigned in settlement of bonds held for services rendered by the creditor to be determined by the Manager after hearing evidence of the service in question.

IV.—No interest to be allowed on debts whose accounts to the satisfaction of the Manager are not produced.

V.—When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI.—When no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII.—Interest not to be allowed on account of debts in the absence of any specification that it shall be allowed.

VIII.—A claim supported by a decree of a civil court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and

that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided rule 4, clause 1, be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

5. All payments made by the Jágirdár or Zamindár to any creditor, or profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from time of such payment or enjoyment, and the Manager shall be competent to decide on the amounts of profits realized under such enjoyment after examining such proofs as are presented to him.

6. Whenever a bond or decree or other claim has been transferred by sale, gift, or otherwise from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

7. All admitted debts shall be satisfied proportionately in the following order :—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account debts.

8. If the principal of all the debts with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims as provided for in Section 11 of the Act during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Jágirdár or Zamindár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amount falls within the requisite limit. For the purposes of calculation under this rule, (20) twenty years shall be taken as the limit of the period of management.

9. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Manager to appoint a Committee of experienced Natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and it shall further be competent to the Manager to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Manager may receive to cover all charges arising directly from the special nature of his duties.

10. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally signed by

the debtor, and both parties shall consent to the said schedule in presence of the Manager, it shall be competent to the said Manager to accept such schedule without further investigation, and to make it the basis of the settlement.

11. If the creditors shall agree to accept a sum of money from the Manager in immediate satisfaction of all their claims on any estate, and the Manager shall determine to borrow money from Government for the purpose of meeting such payment, it shall be competent for the Manager, on receipt of the orders of the Commissioner in Sind sanctioning such loan, to order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally sign receipts in full for all their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor, in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under this Act. And all sums advanced by Government under this rule, shall be recovered from the estate in the same manner as other debts due, or liabilities incurred, to the Crown or Government may be recovered under this Act.

12. In estimating the amount of cash composition to be paid for admitted claims, the following points should be considered:—

(a).—The income of the debtor, the amount of the debt, and the probability that the creditor would have been able to recover his debt if this Act had not been passed.

(b).—The nature of this particular debt.

(c).—The period for which the debt had been outstanding.

(d).—The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively, at the present time.

31. Advances made with the object of facilitating the settlement of the claims against any Jágirdár or Zamindár's estate brought under the provisions of the said Act shall, when the Commissioner in Sind shall so direct, be chargeable with interest at the rate of (5) five per cent.

14. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Commissioner in Sind to make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to warrant.

## APPENDIX A.

## NOTICE UNDER SECTION 12 OF ACT XX. OF 1881.

No.

*Station and date.*

Whereas the management of the undermentioned estate, belonging to (name and father's name) has, by order of the Commissioner in Sind, dated \_\_\_\_\_, been vested in me as the Manager appointed under Act XX. of 1881,

I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said \_\_\_\_\_, or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

Every claimant is hereby required to present full particulars of his claim, and to produce at the same time or to cause to be produced every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

Description of property, situation, and boundaries.

*Manager.*

## APPENDIX B.

## NOTICE UNDER SECTION 26 OF ACT XX. OF 1881.

No.

*Station and date.*

Whereas the management of the undermentioned estate, belonging to \_\_\_\_\_ was, by order of the Commissioner in Sind, dated \_\_\_\_\_, vested in me as the Manager appointed under Act XX. of 1881, and whereas all the debts and liabilities of the said estate have been paid and discharged, notice is hereby given under Section 26 of the said Act, that my management of the said estate will terminate on the (date of termination.)

Description of property, situation, and boundaries.

*Manager.*

## II.—RULES UNDER THE DECCAN AGRICULTURISTS RELIEF ACT, 1879.

### I.—PRELIMINARY.

Definitions.

1.—In these Rules :

- (a) “Registrar” means the Registrar of a District appointed under the Indian Registration Act, 1877 ;
- (b) “Táluka Village Registrar” means a Village Registrar having concurrent jurisdiction over the whole táluka of which he is Táluka Village Registrar and who is also a Sub-Registrar under the Indian Registration Act, 1877 ;
- (c) “Special Village Registrar” means a Village Registrar of a circle consisting of one or more villages.

*N.B.*—Táluka Village Registrars may be also Special Village Registrars of Circles.

### II.—RECORDS.

#### (a) *Register Book.*

2. The Register prescribed by Section 58 of the Deccan Agriculturists Relief Act, 1879, shall be a book kept in the form of Appendix A.

3. A Village Registrar before bringing a new Register Book into use shall count the pages, and satisfy himself that the number thereof corresponds with that given in the certificate on the title page. If the number be found correct, he shall certify to that effect on the title page. If there be a discrepancy, he shall return the book for correction to the officer from whom it was received.

4. The volumes of Register Books in each office shall be numbered in a consecutive series, which shall not terminate with the year but be carried on perpetually. It shall not be necessary to commence a fresh volume at the commencement of a new year. When the amount of copying is great, two volumes of a Register Book may be employed simultaneously, instruments bearing an even serial number being copied into one and those bearing an odd serial number into the other.

#### (b) *Index of Register.*

5. An Index of all entries in the Registers shall be prepared in the form of Appendix B. The Index for all the Village Registry Offices of each táluka shall be prepared by the Táluka Village Registrar from the memoranda forwarded to him under Rule 27 as well as from his own Register.

6. The Index shall be prepared alphabetically for the entire Táluka without reference to the particular office in which the transaction indexed

has been registered, and the necessary entry in the Index shall be made in each case directly the form referred to in Rule 27 has been received. At the end of the year the Index for the taluka shall be bound into volumes.

7. The rules for the time being applicable to the Indexes of the Registers kept under the Indian Registration Act, 1877, shall be followed in the preparation of the Index under these rules so far as regards :

- (a) the method of indexing and transliterating names of villages ;  
 (b) the use of the loose sheets supplied for the preparation of the Index.

(c) *Claim-Note and Day Books.*

8. A Claim-Note Book in the form of Appendix C and a Day Book in that of Appendix D shall be kept by each Village Registrar.

If the registration of an instrument and the furnishing of a copy or copies under the second paragraph of Section 58 is completed on the day of attestation of the instrument and before the parties to the transaction leave the office, no claim-note from this book need be granted to any of such parties.

It shall be the duty of the Village Registrar, if possible, to complete the registration and furnishing of copies as aforesaid on the day on which the parties first come to him for the purpose.

If, however, when the parties leave the office, any of them have a claim to an original instrument or to a copy, the Village Registrar shall grant to each person having such claim a claim-note with the amount of all fees received endorsed upon it, which shall afterwards be taken back and filed when the original instrument or copy to which it relates is delivered to the party who claims it or to such other person, if any, as he has nominated in writing in that behalf on the claim-note, and the signature or signatures of such party or parties shall be taken in the Day Book Form, Appendix D, acknowledging receipt of such instrument or copy.

(d) *Cash Book.*

9. Every Taluka Village Registrar and Village Registrar shall keep a Cash Book in the form given in Appendix E, and in this book shall be entered all fees paid for registration, &c.

(e) *General Provisions.*

10. The office of every Taluka Village Registrar shall be the local office of issue for books, forms, &c., to the other Village Registrars of the taluka in which such office is situate.



The office of each Táluka Village Registrar shall be a central office of record for the Village Registry Offices of the táluka, and the Register Books of the latter Village Registry Offices shall be forwarded to the said Táluka Village Registrar for the purpose of being recorded as they from time to time become complete.

11. All Village Registrars except Táluka Village Registrars shall hold their office where to hold their offices, &c. in the chávdi of the Village, which is the head-quarters of his circle, office hours being from 11 A.M. to 5 P.M. On closing the office, the registration books, &c., shall be secured in a box or otherwise and given in charge of the Village Police for safe custody.

All Táluka Village Registrars and Village Registrars shall provide out of the amount received by them as remuneration whatever writing materials they may require for the work of their respective offices, excepting such blank forms and books as are supplied by Government. They shall be responsible that all instruments drawn up by them or under their superintendence are written intelligibly, legibly and distinctly, and that their records are kept neatly and in order.

12. No Village Registrar shall destroy any of the old papers of his office without having first obtained the sanction of the Registrar through the Táluka Village Registrar.

### III.—PROCEDURE.

#### (f) Execution and Registration of Instruments under Sections 57 and 58.

13. Village Registrars shall duly satisfy themselves of the identity of each executant, and shall receive the fee for registration and copy before the instrument is written. They shall also pay careful attention to the requirements of the Stamp Act and the rules issued under it.

14. Every Village Registrar shall be provided under the orders of the Registrar with specimen forms of all instruments to which agriculturists are ordinarily parties. In drafting an instrument care must be taken to follow the best obtainable form, and while fully expressing the intentions of the parties, to avoid repetition or prolixity.

Above all, the language employed should be simple and clear, and the description of immoveable property, if any has to be mentioned in the instrument, should be such as to enable the property to be unmistakeably identified. When the instrument

relates to land to which a survey has been extended, the survey numbers shall be set forth.

The Village Registrar shall ordinarily draw up the instrument himself, and shall only employ any person to do so under his superintendence when he is prevented by an exceptional press of work, or other unavoidable cause, from drawing up the instrument himself.

When the instrument is not drawn up by the Village Registrar himself but under his superintendence, the person drawing up the instrument shall be chosen by the Village Registrar, and is in no case to be remunerated by the parties themselves but by the Village Registrar from his percentage fees.

15. When the instrument has been written, it shall be read out to all the parties by the Village Registrar and executed as provided in Section 57 as amended by Act XXIII. of 1881.

Endorsements to be made on the instruments after its execution.

The Village Registrar shall then endorse upon the instrument a note in the following form :—

“ Fees received as follows :—

	As.	p.
For preparation and registration...	...	...
For each copy granted to parties under Section 58	...	...
	...	...
	Total As... ”	

Immediately below this note shall appear the endorsement of attestation required by para. 2 of Section 57 in the following form :—

“ This instrument written by me [*under my superintendence*], after having been read aloud within his hearing, has been executed by *A. B. of C. D.*, whom I know [*of whose identity I have duly satisfied myself*] in my presence this day.”

If a witness is examined as to identity, his signature and place of residence shall be taken as under :—

“ *I E. F. of G. H. identify A. B.*”

(*Signature or mark of E. F.*)

The endorsement shall be signed and dated by the Village Registrar; and if any of the parties to the instrument is unable to read it, the attestation by two respectable witnesses shall immediately follow that of the Village Registrar in the following form :—

“ We *I. J. of K. L. and M. N. of O. P.* have witnessed the execution this day of this instrument by *A. B. of C. D.*”

(*Signature or mark of*

*I. J. of K. L.*)

(*Signature or mark of*

*M. N. of O. P.*)

The Village Registrar shall next endorse upon the instrument the note required by para. 2 of Sec.

tion 59 as to whether or not the transfer of the consideration named therein or of any part thereof took place in his presence. This note shall be in one or other of the following forms, as the case may be :—

“ A. B. of C. D. has in my presence this day received from Q. R. of S. T. the sum of Rs. (to be entered both in figures and words) [the following articles, viz.—], being the whole [a part] of the consideration stated in this instrument ;”

or

“ No portion of the consideration stated in this instrument has been paid in my presence to A. B. of C. D.”

The endorsement shall be signed by the Village Registrar.

Immediately below such declaration shall be endorsed a further note showing number of instrument and page and volume of the Register Book in which it is registered.

Finally, at the foot of all these endorsements shall be affixed the Village Registrar's signature with his official designation “ Village Registrar of—,” and the date of such signature.

16. Except as hereinafter provided no instrument which is intended to supersede or modify a previous instrument shall be prepared as laid down in Rules 14 and 15 unless such previous instrument has been produced in accordance with para. 3 of Section 59 before a Village Registrar, who shall, on its production, write upon it the following note :—

Marking of previous instruments for identification.

“ This instrument has been modified [wholly or partly superseded] by instrument No.—of 18 executed in my presence by A. B. of C. D. in favour of Q. R. of S. T., and attested by me this day.”

On the new instrument which modifies or supersedes the previous instrument the Village Registrar shall write, at the top of the document, immediately over the stamp impression, if there be any, the following note :—

“ The instrument dated—executed by A. B. in favour of Q. R., which this instrument modifies [supersedes] has been produced before me this day, and a note of such modification [supersession] has been endorsed by me thereon.”

Provided that the writing of this note shall not dispense with the necessity of a full description of the old instrument being contained in the new one as required by Section 59.

If in any case it be established to the satisfaction of a Village Registrar that a previous instrument of the nature of that named in this rule has been lost or destroyed, or for other sufficient reason cannot be produced, he shall record on the new instrument in

Proviso.

lieu of the last-mentioned note, a note to the following effect :—

“ It has been established to my satisfaction that the instrument dated———executed by *A. B.* in favour of *Q. B.*, which this instrument modifies [*supersedes*] has been (*here state why the instrument cannot be produced*), and cannot therefore be produced before me.”

To each of the above notes the Village Registrar shall attach his signature and official designation, together with the date of signature.

17. In ordinary cases all instruments shall be drawn up and registered at the office of the Village Registrar authorised to prepare the same. But on special cause being shown such officer may attend at the residence of any person desiring to have any instrument prepared and shall charge an additional fee as laid down in the Fee Table prescribed under Section 63.

Preparation and registration of instrument at private residence.

(*g*) Provisions applicable to registration by Village Registrars under Section 58.

18. If in writing an instrument it has been found necessary to make any corrections in the nature of erasures, interlineations, &c., the same shall be initialled by the Village Registrar and clearly noted at the end of the instrument immediately above the signatures of the executants.

Corrections in the original instrument to be attested.

19. If in any case the space afforded by a single piece of paper is found insufficient to contain all the writing of an instrument and it is necessary to attach an extra piece or pieces thereto, the Village Registrar shall write his signature across the junction of the two or more pieces of paper of which the instrument consists both on the front and on the reverse side and make a note in the Register Book at the foot of the entry of how many pieces of paper in addition to the stamp paper the instrument consists.

Provision when space afforded by single piece of paper is insufficient to contain all the writing of an instrument.

20. A Taluka Village Registrar who registers any instrument in the exercise of concurrent jurisdiction or the Village Registrar when registering document relating to immoveable property partly situate in his circle and partly in another shall, on such registration being completed, forward to the Village Registrar within whose circle the property affected by the instrument is situated, or in case of instrument relating to moveable property, to the Village Registrar of the circle in which the executant or executants of such instrument resides or reside, or if the property be situated or executants reside in different circles, to the Village Registrars of each such circle a memorandum of instrument so registered in the Form of Appendix F. These

Memorandum of instrument registered by Taluka Village Registrar to be sent to Village Registrar of circle in which property is situated or in which executant resides.

memoranda shall be filed in the Village Registrar's office to which they may be sent for two calendar years, subsequent to which period they may, with the sanction of the Registrar through the Talu ka Village Registrar, be destroyed.

21. In copying an instrument into the Register Book the endorsements prescribed by Rules 15 and 16 shall be copied in column 2 and the contents of the instrument itself shall be copied in column 3. When the instrument is stamped, the value of the stamp and stamp vendor's endorsement appearing on the original instrument shall be copied in column 3 of the Register Book above the entry.

Mode of copying instruments into the Register.  
Method of noting errors, erasures, &c., in original instruments in the copies thereof in the Register.

22. Errors, erasures, or alterations appearing in original instruments, shall be copied into the Register exactly as they appear in those instruments.

23. On the copy in the Register Book being completed, the Village Registrar having carefully compared it with the original shall certify under his signature, with his official designation attached, that it is a true copy. Any mistakes made at the time of copying shall be corrected by the words written by mistake being underlined and the correct words being written above, or by the words omitted being neatly interlineated; but the Village Registrar shall attest all such corrections in the Register Book by attaching his initials thereto and certify at the foot of the entry that these mistakes were made at the time of copying.

The date of the delivery to executants of the copies referred to in para. 2 of Section 58 and Rule 25 shall, in every case, be shown in the Register Book in column 2 immediately below the endorsements, in the following form: "Copy of this instrument delivered to A. B. of C. D. on (date)———."

24. All entries in a Register Book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. The serial number shall appear in column 11 being distinguished in the case of instruments relating to immoveable property by the letter A and in that of instruments relating to moveable property by the letter B.

An ink line shall be drawn from left to right across the page of the Register Book to show where one entry terminates and where the next begins, such line being drawn immediately below that portion of the copy, whether in column 2 or column 3,

Entries in Register Book how to be numbered and marked.  
Termination of one entry and commencement of next to be shown in the Register Book.

which appears lowest down on the page. The entry relating to one instrument in one column shall in no case be made alongside of the entry relating to any other instrument in the other column.

(h) *Copies and Searches.*

25. Copies\* furnished to executants under the provisions of para. 2 of Section 58 shall be prepared at the same time as the originals and contain all that appears on the original instrument, that is to say, both the contents of, and the endorsements upon, such instrument; and shall, after being compared with the original, be certified to be true copies by the Village Registrar who, below such certificate, shall attach his signature and official designation. Delivery of a certified copy shall be made at the same time as delivery of the original instrument.

Errors, interlineations, &c., appearing in the original instrument shall be shown in these copies in the same manner as in the Register Book as laid down in Rule 22; and mistakes made in preparing them shall be corrected as laid down in Rule 23.

26. †Subject to the payment of the fees prescribed in this behalf by Government under Section 63, Register Books and Indexes and Memoranda filed under Rule 20, shall be open to the inspection of any person applying to inspect the same, and copies of entries therein shall be given to, or may be taken by, any person applying for such copies: Provided that no Register Book or other record of a Village Registrar's Office shall be inspected by any person other than a Government officer, save in the presence of the Village Registrar, and in the place used by him as his office, and that all applications for inspection or for copies shall be in writing.

Any person permitted to inspect such records may search for any entry therein, or if he shall so desire, such search shall be made for him, as aforesaid, by the Village Registrar.

For any payment made under this rule a receipt in the form of Appendix G, shall be granted by the Village Registrar.

(i) *Returns.*

27. Every Village Registrar shall enter in a printed sheet, in the form of Appendix B, all the instruments registered by him during the week, and shall despatch such form on the last day of each week to the Taluka Village Registrar.

\* The stamp-duty leviable on the copies has been remitted by the Government of India's Notification No. 10 of 3rd January 1870, (*Bombay Government Gazette for 8th idem, p. 40*).

† Applications made, and certified copies granted under this Rule, will be subject to the provisions of the Court Fees and Stamp Acts, independently of the copy and search fees leviable under the rules made by Government under Section 63 of the Deccan Agriculturists Relief Act, 1879.

At the close of each month all Village Registrars as aforesaid shall forward to the Táluka Village Registrar a statement in the form of Appendix H, showing the number of instruments registered, and all fee collections made during that month including those on account of searches and copies granted under Rule 26.

From the returns thus sent, and from the information to be gathered from the books of his own office, the Táluka Village Registrar shall prepare a general Monthly Return for the whole of the Village Registry Offices of the táluka in the form of Appendix H, and shall submit the same to the Registrar, in whose office again a general District Monthly Return of the same kind shall be prepared and forwarded to the Inspector General of Registration.

(j) *Remittances.*

28. Remittances on account of registration fees, &c., shall be sent as follows to the Treasury :—

Remittances to the Treasury how to be made.

by Táluka Village Registrars, to the Táluka or Petta Treasury along with the collections of the office under the Indian Registration Act, 1877 ;

by Village Registrars, by means of the village Mahárs, monthly to the Táluka Village Registrar, who shall immediately on receipt enter the same in his Cash Book and pay the amounts into the Treasury as ordered above.

The amounts thus remitted monthly shall be sent so as to reach the Táluka Village Registrar not later than the 25th, or in the case of Táluka Village Registry Offices where there are no Treasuries, not later than the 20th of each month ; or if these dates fall upon a Sunday or gazetted public holiday, not later than the day preceding such Sunday or holiday. In March remittances may be made so as to reach the Táluka Village Registrar not later than the 31st of that month.

A remittance by a Táluka Village Registrar shall be accompanied by his Cash Book in which, on the remittance being paid in, the receipt of the Treasury Officer for the amount shall be obtained.

Remittances by Village Registrars shall be accompanied by a Chullan, which Chullan shall be countersigned by Táluka Village Registrar as acknowledgment of receipt of money and retransmitted by him to the Village Registrar in whose office it shall be filed.

(k) *Correspondence.*

Táluka Village Registrars to be the medium of communication between Village Registrars and the Registrars.

29. Táluka Village Registrars shall, as regards official correspondence, be the medium of communication between the Village Registrars and the Registrars.

Where there is no post-office, correspondence from and to the offices of Village Registrars shall be sent by means of the village Mahárs, who shall be remunerated at the rate of rupee one per mensem.

References from Village Registrars, regarding matters of procedure, when the point involved is of minor importance and the Táluka Village Registrar to whom the reference is addressed entertains no doubt as to what the answer should be, may be disposed of by the latter without further reference to the Registrar. The reply of the Táluka Village Registrar to a reference of the above nature shall, however, be in the shape of advice, not in that of an order. A Register of such references, showing also the manner in which they have been disposed of, shall be kept by each Táluka Village Registrar, who shall be responsible for the exercise of due discretion in replying thereto. When in doubt on any point, the Village Registrar shall refer the matter to the Registrar.



APPENDICES OF RULES UNDER SECTION 61.

APPENDIX A.—(SEE RULE 2).

Serial Number.	Endorsements.	Copy of Instruments.

APPENDIX B.—(SEE RULE 5).

*Form of Index under Rule 6 framed under Act XVII. of 1879.*

Name of Village in which Property is situate.*	Description of Property.	Name of Office in which Instrument is registered.	Name and Place of Residence of Executant or Executants.	Nature of Instrument and Consideration or Value.	Name and Place of Residence of Claiming Party.	Date of Registration and Reference to Register.

\* *N.B.*—In case of instruments relating to moveables, the name of village in which the executant or executants reside should be entered in column 1.

APPENDIX C.—(SEE RULE 8).

*Form of Claim-Note Book.*

On production of this note by \_\_\_\_\_ the conveyance or mortgage belonging to him and attested by me this day will be delivered to him by me (or a copy of the conveyance or mortgage executed by him and attested this day will be delivered to him by me, or otherwise, as the cause may be).

Received fees as follows :—

For drawing and registering instrument ... Rs.

Copy fee ... .. " ..

Total ... Rs. \_\_\_\_\_

Village Registrar.

APPENDIX D.—(SEE RULE 8, CLAUSE 4).

Number of Volume.	Serial Number.	Number of Copies to be granted.	Date on which Instrument returned or Copy granted.	Signatures of Executants or their Agents acknowledging receipt of Instruments and Copies.

## APPENDIX E.—(SEE RULE 9).

*Form of Cash-Book.*

Wednesday, 7th January 1882.

Fees on Entry No. 131 of 1882 at page 88 of Register Book—

Registration...	Rs	a.	p.	Rs.	a.	p.
Copy	0	4	0			
	0	1	0			
	<hr/>			0	5	0

Fees on Entry No. 132 of 1882 at page 89 of Register Book—

Registration ...	0	8	0			
2 Copies ...	0	4	0			
	<hr/>			0	12	0

Remitted to Táluka Village Registrar or Treasury, as the case may be... 1 1 0

(Signed) A. B.,

Village Registrar of \_\_\_\_\_

## APPENDIX F.

*Memorandum under Rule 20 framed under Act XVII. of 1879.*

Serial Number.	Copy of Endorsements.	Nature of Document.	Description and Value of Property affected by the Document.	Situation of Property.	Names of Executing Parties.	Place of Residence.	Profession, Rank, or Title.	Names of Claiming Parties.	Place of Residence.	Profession, Rank, or Title.	Reference to Registrar.

Forwarded to the Special Village Registrar of

Date of Receipt

Date

Táluka Village Registrar.

## APPENDIX G.—(SEE RULE 26, CLAUSE 3).

Received from \_\_\_\_\_ for

(search, or grant of copy, or inspection)

Village Registrar.

APPENDIX H.

(SEE RULE 28.)

*Detailed Statement showing the Classification of all Instruments registered.*

Nature of Instruments.	IMMOVEABLES.				MOVEABLES.				
	New Transactions.	Novation of old Transactions.	Instruments partly relating to old and partly to new Transactions.	Total.	New Transactions.	Novation of old Transactions.	Instruments partly relating to old and partly to new Transactions.	Total.	Grand Total.
Deeds of Sale ... ..									
Mortgages with Possession ... ..									
Mortgages without Possession ... ..									
Deeds of Gift ... ..									
Leases for periods not exceeding one year ... ..									
Leases for periods exceeding one year ... ..									
Bonds ... ..									
All other Deeds ... ..									
Total ... ..									

Registrar of

Statement of Instruments registered during the month ending

Nature of Instrument.	PREPARATION AND REGISTRATION OF INSTRUMENTS AFFECTING IMMOVABLE PROPERTY.																			
	The Value of Consideration not exceeding Rs. 20.		The Value of Consideration exceeding Rs. 20 but not exceeding Rs. 50.		The Value of Consideration exceeding Rs. 50 but not exceeding Rs. 100.		The Value of Consideration exceeding Rs. 100 but not exceeding Rs. 200.		The Value of Consideration exceeding Rs. 200 but not exceeding Rs. 500.		The Value of Consideration exceeding Rs. 500 but not exceeding Rs. 1,000.		The Value of Consideration exceeding Rs. 1,000 and upwards.		No Value of Consideration being expressed in the Deed.	Instruments which cannot be brought under the old valuation scale.	Copies granted to parties concerned.	Total.		
	1	2	3	4	5	6	7	8	9	10	11	12	13							
	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.
Deeds of Sale .. .. .																				
Mortgages with possession																				
Do. without possession .. .. .																				
Deeds of Gift .. .. .																				
Leases for periods not exceeding one year .. .. .																				
Leases for periods exceeding one year .. .. .																				
Bonds .. .. .																				
All other Deeds .. .. .																				
Total .. .. .																				

Nature of Instrument.	SEARCHES AND INSPECTIONS BY				Copies granted.	Memos. under Rule 22.	POWERS-OF-ATTORNEY ATTENDED.				Total Fees, &c., received.	Salaries of		
	Applicant.		Registering Officer.				General.		Special.			Registrar's klmas.	Village Registrar.	Special Village Registrar.
	29	30	31	32			33	34	35	36				
	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	Amount.	Amount.	Amount.	Amount.
Deeds of Sale .. .. .														
Mortgages with possession														
Do. without possession .. .. .														
Deeds of Gift .. .. .														
Leases for periods not exceeding one year .. .. .														
Leases for periods exceeding one year .. .. .														
Bonds .. .. .														
All other Deeds .. .. .														
Total .. .. .														



Monthly Statement of Arrears in the Circle of \_\_\_\_\_ on the 1st

188 .

Village or Taluka Registrar.	Number of Documents to be copied.	Number of Copies to be prepared.	Number of Documents, &c., of which registration is completed, remaining unclaimed in Office.		Details of Documents in hand.
			Instruments.	Copies.	
					10 instruments from April 1882. 5 instruments from May 1882. 20 copies from May 1882. 20 do. from June 1882.

*Detailed Statement showing Number of Transactions of each Nature in each Registration Circle according to Number of Column in Statement of Instruments registered during the month.*

Name of Circle.	Deeds of Sale.	Mortgages with Possession.	Mortgages without Possession.	Deeds of Gift.	Leases for periods exceeding one year.	Leases for periods not exceeding one year.	Bonds.	All other Deeds.
	5 of 1, 2 of 3, 3 of 5, 5 of 8, 1 of 11, 3 of 15, 4 of 16, 1 of 20 and 1 of 24.	5 of 2, 3 of 4, 6 of 6, 1 of 7.	1 of 1, 2 of 3, 5 of 4, 7 of 9, 2 of 15 and 3 of 16.	1 of 1 and 1 of 16.	2 of 2 and 7 of 9.	1 of 3 and 8 of 5.	7 of 15, 21 of 16, 1 of 20 and 1 of 24.	1 of 1, 2 of 4, 7 of 5, 8 of 15 and 2 of 24.

*N.B.*—To be prepared by Taluka Village Registrar from the various returns received from Village Registrar and sent with his general statement.

THE FOLLOWING RULES ARE MADE BY THE GOVERNOR OF BOMBAY IN COUNCIL UNDER THE PROVISIONS OF SECTION 63 OF THE DECCAN AGRICULTURISTS RELIEF ACT, 1879, IN SUPERSESSION OF ALL PREVIOUS RULES ON THE SAME SUBJECT.

*Rules regulating the appointment, suspension, dismissal and remuneration of District Inspectors and Village Registrars.*

1. Every Inspector shall be appointed by and may be suspended or dismissed by the Inspector-General of Registration and Stamps; but shall not be dismissed without the sanction of Government being first obtained.

Appointment, suspension and dismissal of District Inspectors.

2. Every Village Registrar not being a Sub-Registrar shall be appointed by and may be suspended or dismissed by the Registrar; but shall not be dismissed except with the concurrence of the Inspector-General: provided that the first appointments of Village Registrars made after the publication of these Rules, shall be made subject to the approval of Government.

Appointments, suspension and dismissal of Village Registrars.

3. In addition to any fixed salary all Táluka Village Registrars and Village Registrars shall draw 20 per cent. on the fee collections of their respective offices, and in addition to the above, Táluka Village Registrars shall draw 5 per cent. on the gross collections of their respective tálukás.

Percentage commission to Táluka Village Registrars and Village Registrars.

4. In case of neglect of duty, carelessness or other official misconduct in contravention of the provisions of the Deccan Agriculturists Relief Act, the Registrar may fine any Táluka Village Registrar or Village Registrar a sum not exceeding half a month's salary drawn under this Act, and shall report the case to the Inspector-General.

Fines to Táluka Village Registrars and Village Registrars for neglect of duty, &c.

5. No security for the due performance of their duties shall be required from Táluka Village Registrars, who are required to furnish security as Sub-Registrars; but Village Registrars shall be required to give security to the extent of Rs. 100. The security bond of a Village Registrar shall be in the form in use in the Revenue Department. The sureties may be one or two in number as the Collector, in whose charge the bond should be kept, directs.

Village Registrars to give security.

6. In case of a Village Registrar being unable to attend to his duties owing to sudden illness or other cause he shall make an immediate report to the Táluka Village Registrar of the sub-district, who shall forthwith report the absence of the Village Registrar to the Registrar. If a *locum tenens* be appointed, his salary

Arrangements to be made during absence of Special Village Registrars from their offices.

shall be regulated by the existing rules. Pending arrangements being made by the Registrar, the office of such Village Registrar shall be considered as closed, and applicants shall be directed by the village authorities to the Taluka Sub-Registrar.

7. The following scale of fees is fixed to be charged by Registering officers, namely :—

Scale of fees.		Rs.	a.	p.
1.	For writing or superintending the writing and for attesting and registering any instrument, when the value or consideration does not exceed Rs. 20	...	0	2 0
2.	When the value or consideration exceeds Rs. 20 but does not exceed Rs. 50	...	0	4 0
3.	Do. Rs. 50 do. Rs. 100	...	0	8 0
4.	Do. " 100 do. " 200	...	0	12 0
5.	Do. " 200 do. " 300	...	1	0 0
6.	Do. " 300 do. " 400	...	1	4 0
7.	Do. " 400 do. " 500	...	1	8 0
8.	Do. " 500 do. " 1,000	...	2	0 0
9.	For every additional Rs. 500 or part thereof	...	0	8 0
10.	For a document the value of which is not expressed	...	2	0 0
11.	For a document which cannot be brought under the <i>ad valorem</i> scale	...	1	0 0
12.	For a will	...	2	0 0
13.	For granting a copy of an instrument as entered in the Register to the party or parties concerned	...	0	2 0 per copy
14.	Do. do. or memorandum filed under Rule 22 to any person who is not a party	...	0	4 0
15.	Search for or inspection of any entry in the Register Book by any applicant	...	0	2 0
16.	Do. do. if conducted by Registering Officer	...	0	4 0
17.	For attendance at private residence for the preparation of an instrument or for the attestation of a Power-of-attorney.	{ An extra fee equal to the ordinary fee.	{ Besides this the Village Registrar will also be entitled to batta at the usual rates.	



APPENDIX TO RULES UNDER SECTION 63.

(Under Rule 3.)

B 514-92

HER MAJESTY'S GOVERNMENT OF BOMBAY ..... Dr.

The amount of percentage at 20 and 5 per cent. due to the Táluka Village Registrars and Village Registrars on the Fees collected and paid into the Treasury of ..... to the credit of Government during the month of ..... 188 .

1	2	3		4					5								6	
		COLLECTION.		HOW AND WHEN THE COLLECTIONS WERE CREDITED TO GOVERNMENT IN THE TREASURY OFFICER'S CASH ACCOUNT.					PERCENTAGE PAYABLE.									REMARKS.
		Fees.		Total amount paid into the Treasury.	Month.	Heading under which credited.	Item in which it is included.	Twenty per cent. on Fees.		Five per cent. on Gross Collection of the Táluka.	Deduct Fines.		Net Amount of Percentage payable.					
Rs.	a. p.	Rs.	a.	p.		Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	
Táluka.	Names of Táluka Village Registrars and Village Registrars.																	

Certified that the amount entered in column 4 has been credited to Government as above.

Táluka Village Registry Office, }  
188 . }

133 . }

Mámlatdár or Officer in charge of Táluka Treasury.

Táluka Village Registrar.

SPECIAL LOCAL LAWS.]

( 365 )

[PART XVIII.]

THE FOLLOWING RULES ARE MADE BY THE GOVERNOR OF BOMBAY IN COUNCIL UNDER THE PROVISIONS OF SECTION 75 OF THE DECCAN AGRICULTURISTS RELIEF ACT, 1879.

1. No Village Registrar shall prepare or register any instrument under the provisions of the Act to which he or any member of his family is a party. For the preparation or registration of any such instrument the parties shall be referred to the Taluka Village Registrar who has concurrent jurisdiction.

Certain Village Registrars not to prepare or register instruments in which they are interested.

2. No Village Registrar shall prepare or register any instrument under the provisions of the Act, unless it shall be stated in the body of such instrument whether the executing party or parties are previously indebted to the claiming party or not; in the event of the former being the case, the amount of such indebtedness shall be clearly set forth, if it is included in, or relates to the transaction referred to, in the instrument.

Certain recitals required to be made in instruments to be prepared by Village Registrars.

If the instrument has no reference to any previous transaction or instrument, immediately after its execution the following declaration shall be endorsed on the instrument before the Village Registrar and signed by the claiming party or parties to the instrument, or by his or their authorized agent:—

\* "I [or We] hereby declare that this instrument is a *bond fide* new transaction and has no reference to any previous transaction or instrument."

(Signature or mark of————)

3. No Village Registrar shall prepare or register any instrument under the provisions of the Act, unless it shall be stated in the body of such instrument whether the consideration mentioned in the instrument has already been paid or is to be paid hereafter, and if it has been paid, the manner in which such payment was made shall be fully set forth.

Recital as to payment of consideration.

Powers-of-attorney recognizable for purposes of section 57.

4. For the purpose of section 57 the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say):—

(a) if the party executing a power-of-attorney at the time of executing the same resides in any district in which the Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar or Village Registrar within whose district, sub-district, or village such party resides:

\* N.B.—This declaration will be unnecessary for instruments drawn up under paragraph 3 of Section 59.

- (b) if the party at the time aforesaid resides in British India, but not in any district in which the Act is for the time being in force, a power-of-attorney executed before and authenticated by any Magistrate :
- (c) if the party at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India.

## DEPARTMENTAL RULES.

*Inspection.*

1. The District Inspectors of Village Registry Offices shall be responsible that the work in the offices in inspection of the their respective charges is carried out in strict accordance with the rules laid down, and also that the provisions of the Stamp Act and rules are duly complied with. The Inspection Reports of the Village Registry Offices by these officers shall be sent to the Registrars, who shall forward the same to the Inspector-General for perusal, by whom they shall be returned to the Registrar with any observations that he may think necessary. A copy of such report in Vernacular shall be given by the Inspector to the Village Registrar in charge of office concerned, for reference when the final orders are received by him. It will also be the duty of these Inspectors to make special reports to the Registrar of any irregularities or neglect of duty on the part of Táluka or Village Registrars which may come under their notice, as also regarding any complaints which they may from time to time receive from the public.

2. The District Inspectors shall also submit to the Registrar a monthly diary showing the number of offices visited and inspected by them and also any thing special which may come under their notice in connection with Village Registration. The diary shall be an accompaniment to their Travelling Allowance Bill which will be passed by the Registrar.

3. Village Registry offices shall also be from time to time inspected by each of the following officers, viz.:—  
Occasional Inspection for other officers.

1. The Collector of the District,
  2. The Assistant or Deputy Collector in charge of the Táluka,
  3. The Inspectors of Registration and Stamps,
  4. The Mámílatdár or Mahálkari of the táluka or mahál,
  5. The Special Judge,
  6. The Assistants of the Special Judge,
  7. The Subordinate Judges,
- who shall bring to the special notice of the Inspector-General or Registrar any irregularities, &c., which they may observe.

4. The Inspector of Registration and Stamps shall submit a report of the results of his examination of Village Registry Offices, sending it to the Inspector-General of Registration through the Registrar. A vernacular copy of the same shall be handed over to the Village Registrar for record and reference when final orders on it are received. No Inspector shall issue any order on the subject of his inspection direct to any Village Registrar. Any of the officers named in the last

preceding Rule other than the Collector who inspects a Village Registry Office, shall communicate his observations to the Registrar of the District.

On receipt of any such report or observations as aforesaid, the Registrar shall himself dispose of such matters as do not appear to him to require further reference. In more important matters he shall refer to the Inspector-General of Registration before passing orders.

5. Every Officer on completing the examination of a Village Registry Office shall sign the Cash Book, Day Book, &c., and authenticate the Register Book in current use by making a record therein to the following effect:—

“Examined this day from page        in Volume  
to page        in this book.”

(Signed) A. B.

6. Inspection Reports on Village Registry Offices shall be as brief as the circumstances of the case will admit of. They shall state generally whether the fees are properly levied, whether instruments are properly stamped and carefully drawn up, whether the work of registration is done with accuracy (especially with reference to the endorsements of attestation) and despatch, whether the writing in the Register is neatly done, and whether the fee collections have been properly remitted.

#### *Annual Reports.*

7. The Registrar of each District in which the Deccan Agriculturists Relief Act, 1879, is in force, shall, shortly after the close of the official year on the 31st March, submit to the Inspector-General an Annual Report containing such general remarks as he may deem necessary on the work performed during that year by the Village Registrars of his District, with any suggestions which he may have to offer for facilitating, extending or improving the system of Village Registration. He shall also forward with such report such forms of annual returns as may be called for by the Inspector-General.

### III.—THE KHOTI SETTLEMENT ACT, 1880. RULES UNDER SECTION 40.

#### *Crop Appraisement Rules under clause (a).*

I. Whenever the rent payable to the khot consists of a share of the produce of the tenant's land the amount of the produce claimable by the khot shall be ascertained by an estimate of the probable yield of the crop of each field to be made by the khot on an inspection of the crop a reasonable time before the same is ready for reaping in the presence of the tenant, or his legally appointed agent, and of two respectable witnesses, one of whom is able to read and write, provided that the khot shall inspect and appraise the crops specified below on or before the dates entered below :—

Halwa Nágli, on or before the 20th August,		
Other Halwa crops	do.	1st October.
Late crops.	do.	1st November.
Rabi, a. g., Gram, } Kulith, &c. }	do.	1st March.
Summer crops, a. g., } Tur, Páwta, &c. }	do.	20th March.
Hot weather crops, } e. g., Rice (Gim- } vas), Náchani } (Waigan), Jack- } fruit, &c. }	do.	20th May.

Provided further that in the case of Bágáyat crops the Mánlatdár, or Mahálkári, shall decide what constitutes a reasonable time within the meaning of this rule.

II. The days fixed by the khot for inspection and appraisement of crops shall be notified by him in writing to all and every one of his tenants in the village, and the Police Patel shall be directed by the Collector to affix notices to the temples and by beat of drum and otherwise to make these dates known at least seven days previously, and if for any sufficient cause (as that the crop is not ripe, &c.) any crop is not inspected or appraised on the days so fixed, the inspection and appraisement shall not, except with the consent of the tenant, take place until after a similar second notification has been made in the village. But the date fixed by the second notification must be within the limits specified in the preceding rule.

III. If notwithstanding that the days fixed for the inspection and appraisement have been notified as aforesaid, the tenant, or his legally appointed agent, is not present in his field on the days so fixed, the khot shall nevertheless proceed to inspect and appraise such tenant's crops as if he, or his legally appointed agent, were present, and shall inform such tenant in writing of the appraisement within 24 hours of the same by sending him a copy of the entries relating to his fields made during his absence, or that of his legally appointed agent, by the khot in the Abhavani Patrak mentioned in the rule immediately following.

IV. It shall be the duty of the khot to keep a book to be called the Abhavani Patrak in such form as the Collector may, from time to time, prescribe, in which he shall, at the time of every inspection and

appraisement that he shall make, enter on the spot the particulars of such inspection and appraisement, or cause the same to be entered. Each entry in the said book shall bear the date on which it is made, and shall be signed by the khot making the inspection and appraisement, by both witnesses, and also, if the tenant or his legally appointed agent be present and admit the correctness of the entry, by the tenant or such agent, provided always that such tenant or agent is able to write his name and does not use a mark.

V. The khot shall be bound, if the tenant or his legally appointed agent is present, to give him then and there a signed copy of the entries relating to his fields made in the Abhavani Patrak. If the tenant admits the correctness of the entries and has brought his receipt-book, the entries shall be copied on the debit side of the receipt-book. In all other cases the copy shall be on a separate slip.

VI. An entry duly made in the Abhavani Patrak in accordance with the foregoing provisions, and signed with his name by the tenant or his legally appointed agent, shall be conclusive evidence of the facts therein recorded, and the appraisement shall be deemed to be final; and an entry so made when the tenant or his legally appointed agent fails to be present shall be presumed to be correct until the contrary is proved in the manner prescribed in the next following rule, and provided the tenant has been informed of the appraisement in the manner prescribed in the last part of Rule III.

VII. A tenant who has not signed the Abhavani Patrak, or who has signed it with a mark only, may, if dissatisfied with the appraisement, petition the Mamlatdár or Mahálkari of the Táluka or Mahál in which the village is situate, within six days of the khot making the appraisement, and such officer shall forthwith nominate three respectable inhabitants of the village or its neighbourhood to inspect and appraise the crop within seven days. The appraisement made by such persons, or a majority of them, shall be final and shall be entered by the khot at the time it is made in the Abhavani Patrak, and the entry shall be signed by the said three persons or the majority of them.

VIII.—If the khot fail to keep an Abhavani Patrak, or to make an entry, or to cause the same to be made therein in the manner hereinbefore provided, or to give information to the tenant in the manner provided in Rule III, he shall be entitled to recover from the tenant such rent only as may be due according to the yield of the crop admitted by the tenant.

IX. It shall not be lawful for a tenant to reap his crop until after the same has been inspected and appraised, or until the expiry of the dates mentioned in Rule I, within which the inspections and appraisements of crops by the khot should be completed. If the tenant reaps his crop in contravention of the above rule, every presumption on doubtful points shall be made in the khot's favour.

X. If the tenant without making a petition under Rule VII. reaps his crop after it has been inspected and appraised by the khot in the presence of such tenant, or his legally appointed agent, or after the khot has given such tenant information in the manner provided in Rule III., he shall be deemed to have admitted the correctness of the khot's estimate.

*Rules under Clause (b).*

I. An entry in the Paháni Kharda of *Dhára*, if not rebutted, shall be conclusive proof of *dhára*. If the Paháni Kharda only shows that a certain area was held as *dhára*, but gives no *thikáns*, the land to be entered as *dhára* shall be chosen at the discretion of the Settlement Officer from the survey numbers in the rayat's possession; always provided that the area and the proportion of rice to Varkas land which may be given in the Paháni Kharda be not exceeded, and that if no information is available as to the said proportion, it shall be assumed to be 1 acre of rice to 4 acres of Varkas.

II. Where there is no Paháni Kharda but a Goshwára entry only, this entry if not rebutted shall be conclusive proof that the Khátedár holds some *dhára*. To ascertain the area of his *dhára*, it will be necessary to discover at what rates the land assessment of the village was fixed. Evidence of this may be obtained from the Paháni Khardás of surrounding villages or otherwise. The Settlement Officer shall then proceed as in the last clause of Rule 1. If the land assessment rates cannot be ascertained to the satisfaction of the Settlement Officer, the highest rate known to have existed at the date of the Goshwára must be taken as a basis and the same procedure followed.

III. The evidence of entry in Paháni Kharda or Goshwára may be rebutted by the khot producing written proof from his accounts that he has taken "*Thal*" or *Makta* payments for three consecutive years within the twelve years preceding the introduction of the survey. In "*Thal*" he must show for Varkas land payments in successive years from the same land of the three crops of Náchni, Wari, and Harik.

IV. If there is no Paháni Kharda or Goshwára, the possession of *dhára* may be proved by the production of receipt-books showing *dhára* payments for a sufficient number of years to satisfy the Settlement Officer. If no *thikáns* are given in the receipt-books he shall proceed as in the last clause of Rule I.

V. If a rayat is proved to hold some *dhára*, and if it is not proved that any of the land in his possession has paid *thal*, the whole of the land in his possession shall be entered as *dhára*.

*Rules under Clause (c).*

I. When a khot sharer sells any of his private khoti land (Khoti Khasgi) the buyer thereof shall be entered in the survey papers in respect of that land as an occupancy tenant paying customary rates with the right to alienate his land.



II. A Khelta Dhárekari shall be bound every year, on or before the 30th April, to give notice to the khot, stating what fields in the khoti Nisbat Kháta he intends during the ensuing season to cultivate at dhára rates. If he fails to do so, he will be presumed to have waived his right for that season and will have to pay "*Thal*" for any khoti land that he does cultivate.

III. The rent payable to the managing khot by khot sharers for their private khoti land shall be the customary rates of the village for occupancy tenants, unless it is proved that before 1865 khot sharers paid a *Makta* or a lower rate of "*Thal*," in which case the ancient practice shall be followed.

IV. Land about which there is, or has been, a boundary dispute between two villages shall be entered in the name of the occupant as follows:—

(a). If both villages are Niwal Dhára, as *dhára* land.

(b). If both villages are Niwal Khoti, as occupancy tenant's land paying ardhel and tirdhel.

(c). In any other case, as occupancy tenant's land paying survey assessment and local fund cess only.

V. *Dhárekaris* and *quasi-dharekaris* have a right to cut, without permission from the Collector or Assistant Collector, all trees growing in their *dhára* land except teak and blackwood. A Khelta Dhárekari has no right to cut trees.

VI. The khot shall keep under Section 15 the following three accounts:—

1. The Appraisal Register.
2. The Ledger.
3. The Rayat's Receipt-books.

They shall be kept in the forms hereunto annexed (Appendix I).

The Appraisal Register shall be filled up at the time of the crop appraisal in the manner laid down in Rule IV. of the Appraisal Rules under clause (a) of Section XL.

The Ledger is to be kept in the ordinary form of debit and credit account, showing the amount due from and paid by each rayat in a separate *kháta* for each *kháta* of the Botkhat. The items of the debit side of the rayat's account relating to grain payments are to be written up within 15 days from the date within which the appraisal of the crops to which the items severally relate must be made under the Appraisal Rules.

The rayat's receipt-book is to be written up on the debit side, in cases of grain payments, within one month from the several dates within which the appraisal of the crops must severally be made; in cases of *dhára* or *quasi-dhára* payments, before the 1st September.

Whenever a payment is made by a rayat, a receipt is then and there to be entered by the khot on the credit side of the rayat's receipt-book and the book returned to its owner.

If the rayats do not bring their books to be written up on the debit side within the proper time the khot shall immediately on the expiry of the period make a report to the Mámíatdár or Mahálkari to that effect, who will then issue the necessary instructions to the rayats.

If a rayat brings grain or cash in payment of his revenue to the khot without bringing his receipt-book also, the khot shall accept the payment, but note the omission in the entry of payment in the rayat's kháta and give a separate dated receipt.

All the account books must be brought or sent by the khot to the kacheri of the Mámíatdár or Mahálkari to be sealed on or before the 1st July of the year preceding that for which they are to be used. This includes fresh rayats' receipt-books which must be handed over to the khot for this purpose by the rayat on or before the 1st June of the year preceding that in which they are to be first used.

Every page of every account-book shall be sealed. The books for the first two accounts shall be provided by the khot. Each rayat shall provide his own receipt-book. Besides the three accounts above mentioned the khot shall take a copy of the *Botkhat* at his own expense, and shall keep it properly corrected, as the Mámíatdár or Mahálkari shall notify.

The copy of the *Botkhat* so made shall, if the village be attached, be delivered up by the khot to the Mámíatdár for the use of the Japtidár, and on the attachment ceasing shall be returned to the khot. The khot shall also take a copy of "*Sud*" and "*Phalni*" books. If he does not do so, he will be responsible for any mistakes that might have been prevented by the use of those books, but shall not be subject to any other penalty.

The managing khot shall be bound to provide a convenient place within the boundaries of the village itself to which the rayats may bring their payments whether in cash or kind. He shall not be entitled, on any pretence whatever, to require a tenant to pay his rent in any other place except the village in the survey papers of which the tenant's name is entered.

VII. The *Botkhat* shall be in the form hereto annexed. (Appendix No. I, Form No. 1). The customary rates of the village shall be recorded in full at the bottom of the *Botkhat*.

Any corrections ordered to be made in the *Botkhat* shall be signed by the Mámíatdár or Mahálkari.

If a proper *wantap* or division has been made, each khot sharer shall be denoted by number and each rayat's kháta containing khoti land shall have the said khoti land entered with the number denoting the khot sharer in whose share the land is affixed to the survey number, and all the survey numbers in the share of one particular khot sharer shall be entered consecutively.

In all cases in which the Settlement Officer has decided that khoti land is alienable by a tenant, the fact shall be entered in column 5 of the *Botkhat* by the Mámlatdár or Mahálkari.

*Rules under clause (f).*

I. No forfeiture under Section X. shall be certified in the case of an occupancy tenant unless he has failed to pay rent for two consecutive years, nor if the tenant is a minor shall any forfeiture be certified until two years after he has attained his majority and has failed to pay rent.

II. If the khot is in actual possession when the minor attains his majority and refuses to vacate, the Collector shall on the minor's application put him in possession.

III. If from any cause whatever, except the necessity of keeping fallows, an occupancy tenant fails to cultivate his land, the khot may cultivate it for him during that season just as if it were khot-nisbat land, but if he does so cultivate he shall be entitled to no assistance under Section XIV.

IV. The form of written application under Section 12 shall be as follows :—

TO THE COLLECTOR OF RATNA GIRI.

I (or we), the undersigned khot (or khot sharers) of the village of (—) do hereby certify that I (or we) have conferred on A.B. the rights and privileges of a dhárekari, (or quasi-dhárekari, &c., as the case may be), in respect of the Survey numbers and Pot or Phalni numbers of the village tabulated below :—

Survey Number.	Pot or Phalni Number.	Area.	Assessment.

and I (or we) do request that an entry to this effect may be made in the *Botkhat* of the said village.

(Signed)———

(Date)———

All the known khot sharers or their duly empowered attorneys shall sign—otherwise the application will be rejected.

V. Under Section 27, if there is no agreement as to the order of rotation, the Mámlatdár or Mahálkari shall, on or before the 1st June in each year, issue a notice calling on the co-sharers to nominate one of their number on or before the 30th of June to be Managing Khot for the following revenue year.

VI. The dates for the payments of instalments of the khot's jama shall be as at present, viz., 15th December, 1st February, 15th March, 1st May.

The dates for payment of rents by dhárekaris and quasi-dhárekaris shall be the same as for khots; but a dupetkari shall pay his grain rents on the same dates as occupancy tenants do.

Occupancy tenants shall pay their grain rents as follows:—

On the 15th December—

Half the total "Thal" payment due in Halwa or early rice and Mahán or late rice and the total Thal payment due in *Halva Varkas*.

On the 1st February—

The other half of the total Thal payment due in *Halwa* rice and *Mahán* rice and half the total Thal payment due in Mahán Varkas.

On the 15th March—

The other half of total "Thal" payment due in *Mahán Varkas*,

On the 1st June—

The total Thal payment due on account of all other crops.

except Bágáyat, the Thal payment for which must be paid within what the Mámílatdár or Mahálkari in each disputed case may consider a reasonable time.

If the occupancy tenant pays a Makta he shall pay it in three equal instalments on the 15th December, 1st February and 15th March.

VII. The certificate to be given to the Managing Khot under Section 29 is to be in the form hereto annexed (Appendix I., Form 4).

## APPENDIX No. I.

## FORM 1.

## APPRAISEMENT REGISTER.

## FORM OF BOTKHAT.

BOTKHAT OF MAUZE      TAUF      TAL'UKA      ZILLA RATNA'GIRI, A.D. 188 .

*Khoti Rights and Shares.*

Khot Number.	Wantaps or Divisions of Shares held separately.	Division of Shares among the Wakals or Families as finally settled.	Shares of Persons interested other than those mentioned in Columns 2 and 3, of their Sub-sharers.	Names of Persons having interest referred to in Columns 2 and 4 or 3 and 4, and the Names of their Mortgagees.	REMARKS.
1	2	3	4	5	6
	As.	As.	As. p.		
1	4	.....	..... 1 0 1 0 2 0	Hari Govind Sápkar. 1 Hari Govind himself. 2 Trimbak Náráyan Sápkar. 3 Bábáji Shivrám Sápkar, mortgagee Rámchandra Govind Mule.	
		Total ...	4 0		
2	.....	4	..... 2 0 2 0	Krishnáji Dáji Joshi. 1 Krishnáji Dáji himself. 2 Vishwanáth Ganesh Joshi.	
		Total ...	4 0		
...	.....	8	..... 1 0 1 0 1 0 1 0 2 0 2 0	Sadáshiv Govind Diwekar. 1 Sadáshiv Govind himself. 2 Bápúji Govind Diwekar. 3 Venkatesh Náráyan Diwekar. 4 Bhikáji Ganesh Diwekar. 5 Keshav Rámchandra Diwekar. 6 Vital Yeshwant Diwekar, Mortgagee. Báláji Vásudev Barwe.	
		Total ...	8 0		
	4	12	Rs. a. p. 1 0 0		

NUMBER.			NAME OF FIELD.	Tennure, viz., Inām or Khālsa Government) Dhāra or Khoti and other Tenures. Whether a Khoti Tenant has a right to sell Khoti Land or not? If he has to state that he has.	Khot Number.	Share out of the whole Village on Khoti.	SURVEY ASSESSMENTS PAYABLE.									
Survey Number	Pot Number.	Phalut Number.					Kharif or Rice Lands.		Rabi Lands.		Garden Lands.		Varkas Lands.		Assessment on Coconut Trees.	Total of Assessment.
							Acres and Gunthās.	Amount.	Acres and Gunthās.	Amount.	Acres and Gunthās.	Amount.	Acres and Gunthās.	Amount.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
			Sajand bin Pingogi Bhogalé No. 1.				A. g.	Rs. a. p.	A. g.	Rs. a. p.	A. g.	Rs. a. p.	A. g.	Rs. a. p.	Rs. a. p.	Rs. a. p.
1	7	...	Mhēsondá	Dhāra	...	...	...	...	...	...	0 10	1 4 0	...	...	...	1 4 0
6	...	10, 20, 21 & 22	Kalacha Parya	Do.	...	...	...	...	...	...	...	...	3 15	0 8 6	...	0 8 6
8	1	...	Do.	Do.	...	...	0 6½	0 11 0	...	...	...	...	...	...	...	0 11 0
12	1	...	Kūdeté	Do.	...	...	0 13	1 6 0	...	...	...	...	...	...	...	1 6 0
16	...	10, 11, 20 & 21	Gōttana	Do.	...	...	...	...	...	...	...	...	9 2	1 3 6	...	1 3 6
24	...	1	Kargalmhos	Do.	...	...	...	...	...	...	...	...	0 34	0 3 0	...	0 3 0
37	1	...	Wawalyachi	Do.	...	...	...	...	...	...	0 4½	0 10 0	...	...	...	0 10 0
43	...	...	Wādāché	Do.	...	...	0 23½	2 8 0	...	...	...	...	...	...	...	2 8 0
44	...	7	Shivkala Batachi	Do.	...	...	...	...	...	...	...	...	0 13	0 1 0	...	0 1 0
51	5	...	Kharwat	Do.	...	As. 8	0 30	3 12 0	...	...	...	...	...	...	...	3 12 0
77	...	9, 10 and 15	Paryaché	Do.	...	...	...	...	...	...	...	...	3 19	0 8 6	...	0 8 6
...	6	13					1 33½	8 5 0	...	...	0 14½	1 14 0	17 3	2 8 6	...	12 11 6
17	...	7 & 12	Gawan	Occupancy Tenant.	1	...	...	...	...	...	...	...	3 23	0 9 0	...	0 9 0
50	...	4, 11 and 19	Warkhadicha Mala.	Do.	1	...	...	...	...	...	...	...	2 30	0 5 0	...	0 5 0
50	...	20	Do.	Do.	1	As. 8	...	...	...	...	...	...	1 5	0 2 0	...	0 2 0
77	...	5	Parayaché	Do.	1	...	...	...	...	...	...	...	0 34	0 3 0	...	0 3 0
...	...	7					...	...	...	...	...	...	8 17	1 3 0	...	1 3 0
1	...	2	Mhasonda	Do.	2	...	...	...	...	...	...	...	0 1	0 0 6	...	0 0 6
12	...	1	Koodyat	Do.	2	...	...	...	...	...	...	...	0 2	0 0 6	...	0 0 6
17	...	13	Gawana	Do.	2	...	...	...	...	...	...	...	1 0	0 2 0	...	0 2 0
29	...	3 and 4	Dewalāchā Sada	Do.	2	...	...	...	...	...	...	...	1 21	0 5 0	...	0 5 0
35	...	1	Devala Nageek	Do.	2	...	...	...	...	...	...	...	2 0	0 5 0	...	0 5 0
...	...	6 and 9	Dewalāchā Sada	Do.	2	...	...	...	...	...	...	...	1 18	0 5 0	...	0 5 0
36	...	11	Dhakta Sada	Do.	2	...	...	...	...	...	...	...	0 22	0 2 0	...	0 2 0
38	...	2 & 10	Payarichi Pakhar	Do.	2	...	...	...	...	...	...	...	1 6	0 2 6	...	0 2 6
...	...	18	Do.	Do.	2	As. 8	...	...	...	...	...	...	0 20	0 1 0	...	0 1 0
40	...	4 and 8	Tonk	Do.	2	...	...	...	...	...	...	...	1 20	0 4 6	...	0 4 6
51	...	7	Kharwat	Do.	2	...	...	...	...	...	...	...	0 2	0 0 6	...	0 0 6
75	...	9	Tonk	Do.	2	...	...	...	...	...	...	...	2 10	0 6 0	...	0 6 0
...	...	16					...	...	...	...	...	...	12 2	2 2 6	...	2 2 6
...	6	36					1 33½	8 5 0	...	...	0 14½	1 14 0	37 22	5 14 0	...	16 1 0

NUMBER.			NAME OF FIELD.	Tenure, etc., Inam or Khāra (Government) Dhāra or Khoti and other Tenures. Whether a Khoti Tenant has a right to sell Khoti Land or not? If he has, to state that he has.	Khoti Number.	Share out of the whole Village on Khoti.	SURVEY ASSESSMENTS PAYABLE.									
Survey Number.	Plot Number.	Pachal Number.					Kharif or Rice Lands.		Rabi Lands.		Garden Lands.		Varkas Lands.		Assessment on Occasional Trees.	Total of Assessment.
							Acres and Gunthas.	Amount.	Acres and Gunthas.	Amount.	Acres and Gunthas.	Amount.	Acres and Gunthas.	Amount.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
10	...	6 & 9	Subhannabā Ganna Mhāpadi No. 10.													
			Cawtana ...	Occupancy Tenant.	1	...	...	...	...	...	...	...	1 20	0 3 0	...	0 3 0
6	...	2	Khalācha Paryā ..	Do. ....	2	...	...	...	...	...	...	...	1 0	0 3 0	...	0 3 0
17	...	4	Gawana ...	Do. ....	2	...	...	...	...	...	...	...	0 20	0 1 0	...	0 1 0
38	...	4	Payarihi Pakhar ..	Do. ....	2	...	...	...	...	...	...	...	0 10	0 0 6	...	0 0 6
42	...	6	Khonda ...	Do. ....	2	...	...	...	...	...	...	...	0 12	0 0 6	...	0 0 6
44	...	6	Shivkala batāchi ..	Do. ....	2	...	...	...	...	...	...	...	0 1	0 0 6	...	0 0 6
50	...	14 & 17	Warkhadicha Mal ..	Do. ....	2	...	...	...	...	...	...	...	1 7	0 2 6	...	0 2 6
70	...	1, 4 & 6	Matsaha Sada ...	Do. ....	2	...	...	...	...	...	...	...	0 35	0 3 0	...	0 3 0
71	...	5	Tonk ...	Do. ....	2	...	...	...	...	...	...	...	0 35	0 2 0	...	0 2 0
77	...	14	Parayachā ...	Do. ....	2	...	...	...	...	...	...	...	1 14	0 3 0	...	0 3 0
...	...	12			...	...	...	...	...	...	...	...	6 14	1 0 0	...	1 0 0
...	...	14			...	...	...	...	...	...	...	...	7 34	1 3 0	...	1 3 0
			<i>Details.</i>													
			Dhāra Lands ...	...	...	...	18 20	86 10 0	...	...	15 16½	71 15 0	59 29	9 3 6	...	167.12 6
			Khoti land belonging to Khot No. I.	...	...	...	0 15½	1 4 0	...	...	1 20½	5 7 0	131 3	20 3 6	...	26 14 6
			Do. do. No. II.	...	...	...	0 15½	1 11 0	...	...	0 19½	1 5 0	355 8	56 13 6	...	59 13 6
				...	...	...	0 31	2 15 0	...	...	1 30½	6 12 0	486 11	77 1 0	...	86 12 0
80	125	427			...	...	19 20	89 9 0	...	...	17 16½	78 11 0	546 0	86 4 6	...	254 8 6
2	...	3	Waste ...	...	...	...	...	...	...	...	...	...	0 28	...	...	...
82	125	430	Waste and cultivated lands together.	...	...	...	19 20	89 9 0	...	...	17 16½	78 11 0	546 28	86 4 6	...	254 8 6

The abovementioned khātedārs are to pay as follows :—

1. The holders of dhāra lands should pay the Survey Assessment and the Local Fund Cess at the rate of one anna for each rupee of Assessment.
2. The quasi-dhārekāris are to pay the Survey Assessment in addition to the excess amount of rent at the rates (to be mentioned below) given in the Schedule annexed to the Khoti Act.
3. The holders of khoti lands are to pay as follows :—
  1. The khoti tenants except the Khoti sharas, and
  2. The khoti sharas are to pay in accordance with the decisions recorded at the Special Ruzuwāt and confirmed by the Settlement Officer under Government Resolution No. 2474, dated the 24th April 187 .

FORM 2.

n 514-03

*Khatāvani or Ledger of Mauze*

*Tarf*

*Táluka*

*Zilla Ratnágiri for the khoti portion of the village lands for A.D. 1878-79, being Shake 1800-1801.*

RICE IN HUSK. <i>Monsoon Crops.</i>	GOPAL BIN RAMA NACHRA No. <i>Náglí.</i>	<i>Wari.</i>
K. m. p.	K. m. p.	K. m. p.
0 2 0 Tikán Rátámbi, being S. N. 125, Pot No. 6, 10 gunthás is estimated to yield 4 maunds, of which the khot's share is one-half, <i>vide</i> No. of Abhawani Patrak.	0 2 0 Tikán Kawal-taimbi, being S. N. 128, Phalni 4. 2 acres is estimated to yield 6 maunds, of which the khot's share is one-third, <i>vide</i> No. of Abhawani Patrak.	0 1 0 Tikán Kawal-taimbi, being S. N. 128, Phalni 4. 1 acre 5 gunthás is estimated to produce 3 maunds, of which the khot's share is one-third, <i>vide</i> No. of Abhawani Patrak.
0 6 0 Tikán Sonambi, being S. N. 8, Pot No. 1. 20 gunthás is estimated to yield 12 maunds, of which the khot's share is one-half, <i>vide</i> No. of Abhawani Patrak.	<i>Receipts.</i>	<i>Receipts.</i>
	0 2 0 Paid for the current year in person or through A on the 14th March 1880, at the rate of 45 rupees per khandi, Rs. 4-8-0.	0 1 0 Paid for the current year in person or through one maund of wari at the rate of 40 rupees per khandi, Rs. 2-0-0.
<i>Fair Weather Crops.</i>	0 0 0 Balance.	0 0 0 Balance.
0 5 0 Tikán Kamath, being S. N. 142, Pot No. 3 25 gunthás is estimated to yield 10 maunds, of which the khot's share is one-half, <i>vide</i> No. of Abhawani Patrak.	KAD-DAN.	<i>Betel-nut.</i>
	<i>Kadwé.</i>	K. m. srs.
0 2 0 Tikán Kúdété, being S. N. 150, Pot No. 1. 20 gunthas is estimated to yield 4 maunds, of which the khot's share is one-half, <i>vide</i> No. of Abhawani Patrak.	0 1 0 Tikán Kamath, being S. N. 142, Pot No. 3. 25 gunthás is estimated to yield 2 maunds of kadwé, of which the khot's share is one-half, <i>vide</i> No. of Abhawani Patrak.	0 0 4 Tikán Sonambi, being S. N. 8, Pot No. 1. 20 gunthás is estimated to yield 8 sers of betel-nut, of which the khot's share is one-half, <i>vide</i> No. of Abhawani Patrak.
0 15 0		



*Receipts.*  
 0 7 0 Paid in person or through for the current year on the 14th March 1880, seven maunds of rice in husk at the rate of Rs. 35 per khandi (Rs. 12-4-0.)  
 0 8 0 Balance for the current year.

*Til.*  
 0 2 0 Tikán Masanwato, being S. N. 130 Phalni 2, 1 acre and 5 gunthás, is estimated to yield six maunds of til, of which one-third is the khot's share, vide No. of Abhawani Patrak.

*Receipts.*  
 0 2 0 Paid for the current year on the 14th March 1880, in person or through two maunds of til.  
 0 0 0 Balance.

*Receipts.*  
 0 1 0 Paid for the current year in person or through on the 28th May 1880, one maund.  
 0 0 0 Balance.

*Jack-fruit.*  
 No. 250 Jack-trees in Gastan and S. N. 130 are estimated to yield 500 jack-fruit, of which one-half is the khot's share, vide No. of Abhawani Patrak.

*Receipts.*  
 250 Paid for the current year on the 25th May 1880 in person or through two hundred and fifty jack-fruit.  
 0 Balance.

*Sugar-cane produce (Jaggery).*  
 K. m. srs.  
 0 1 20 Tikán Kúdété, being S. N. 150, Pot No. 2. 20 gunthás is estimated to yield 3 maunds jaggery, of which one-half is the khot's share, vide No. of Abhawani Patrak.

*Receipts.*  
 0 1 0 Paid for the current year on the 25th May 1880 in person or through one maund of jaggery.  
 0 0 20 Balance for the current year.

*Receipts.*  
 0 0 4 Paid for the current year on the 28th May 1880 in person or through 4 sers of betel-nut.  
 0 0 0 Balance.

*Cocoanuts.*  
 No. 50 Two coconut trees in S. N. 130 are estimated to yield 100 cocoanuts, of which one-half is the khot's share, vide No. of Abhawani Patrak.

0 Receipts.  
 50 Balance. Fifty cocoanuts for the current year.

*Harik.*  
 K. m. p.  
 0 1 8 Tikán Kawal-taimbi, being S. N. 128, Pot No. 4. 25 gunthás is estimated to yield 4 maunds and 8 pylis of harik, of which one-third is the khot's share, vide No. of Abhawani Patrak

*Receipts.*  
 0 1 0 Paid for the current year on the 14th March 1880 in person or through one maund of harik.  
 0 0 8 Balance.

FORM 3.

FORM OF RAYAT'S RECEIPT-BOOK.

No of Ledger Account.

Ledger page.

Lakshmun Vishwanáth Pettey, inhabitant of Mauze

Taraf

Tálnka

Zilla Ratnágiri, for A.D. 1879-80.

Rs. a. p. Amount paid in cash in person or through on the 5th of  
 8 2 0 December 1879 ... ..  
 Current year—  
 7 12 0 Land Revenue.  
 0 6 0 Local Fund Cess.  
 8 2 0 Rupees eight and annas two only.

(Signed) GOVIND KESHAV,  
 Khot.

K. m. ps. Amount of rent in kind paid in person or through on the  
 0 13 0 14th March 1880 ... ..  
 Current year— Rs. a. p.  
 K. m. p.  
 0 7 0 Rice in husk at Rs. 35 per khandi ... .. 12 4 0  
 0 2 0 Nágli at Rs. 45 per do. ... .. 4 8 0  
 0 1 0 Wari at Rs. 40 per do. ... .. 2 0 0  
 0 1 0 Harik.  
 0 2 0 Til.  
 18 12 0

0 13 0 Thirteen maunds of grain or three maunds of grain and the  
 value of ten maunds, viz., rupees eighteen and annas  
 twelve only.

(Signed) GOVIND KESHAV,  
 Khot.

K. m. srs. Paid for the curent year on the 25th May 1880 ... ..  
 0 1 0 250 (No.) jack-fruit in person or through  
 Sugar-cane produce (jaggery) in weight in person or through  
 Two hundred and fifty jack-fruits and one maund of jaggery.  
 (Signed) GOVIND KESHAV,  
 Khot.

0 0 4 Paid for the current year on the 28th May 1880.  
 0 1 0 Betel-nut weighing four sers in person or thraough  
 Kad-Dan—kadwé, one maund.

Four sers of betel-nut and one maund of kadwé.

(Signed) GOVIND KESHAV,  
 Khot.

Rs. a. p.  
 6 8 0

Balance—  
 Amount due as settled for the current year.  
 Assessment on Dhára lands.  
 Land Revenue.

Name of Thikán.	S. N.	Pot No.	Falni No.	Land.	Assess-ment.
				A. g.	Rs. a. p.
Rewa	...	5	2	0	0 10 0 6 0
Fanshi	...	15	8	0	5 2 6 2 0
					5 12 6 8 0

Assessment on Daspata lands.  
 Rs. a. p.  
 1 4 0

Name of Thikán.	S. N.	Pot No.	Falni	Land.	Assess-ment.
				A. g.	Rs. a. p.
Ganiché	...	4	3	0	0 5 0 8 0
Shéwré	...	8	2	0	0 10 0 12 0
					0 15 1 4 0

0 2 6 Excess amount of rent fixed at the survey settlement accord-  
 ing to Mámul (old) custom in regard to Daspata lands.

1 6 6

Assessment on Didpata lands.  
 1 5 4 Land Revenue.

	S. N.	Pot No.	Falni No.	Land	Assess-ment.
				A. g.	Rs. a. p.
Dand	...	15	5	0	0 10 0 12 0
Shinu	...	20	4	0	0 9 0 9 4
					0 19 1 5 4

Excess amount rent in kind fixed at the survey and settle-  
 ment according to the Mámul (old) custom in regard to  
 Didpata lands.

K. m. p. Remission.  
0 0 6 Amount of rent in kind remitted from the current year's khot's share in rice produce in S. N. S, Pot No. 1, viz., six pails.

(Signed) GOVIND KESHAV,  
Khot.

*Abstract.*

Nature of Item.	Receipts during the year.	Balances at the close of the year.	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
<i>In Cash.</i>			
Cash ... ..	8 2 0	1 10 11	9 12 11
<i>In Kind.</i>	K. m. ps.	K. m. ps.	K. m. ps.
Rice in husk ... ..	0 7 6	0 8 0	0 15 6
Nágli ... ..	0 2 0	.....	0 2 0
Wari ... ..	0 1 0	.....	0 1 0
Harik ... ..	0 1 0	0 0 8	0 1 8
Til ... ..	0 2 0	.....	0 2 0
Kadwé ... ..	0 1 0	.....	0 1 0
<i>In Weight.</i>	K. m. srs.	K. m. srs.	K. m. srs.
Betel-nut... ..	0 0 4	.....	0 0 4
Sugar-cane produce (jag-gery) ... ..	0 1 0	0 0 20	0 1 20
<i>In Number.</i>	No.	No.	No.
Jack-fruit ... ..	250	.....	250
Coconuts... ..	.....	50	50
Bundles of rice straw ... ..	.....	303	300

(Signed) GOVIND KESHAV,  
Khot.

Rs. a. p.  
0 9 1

K. m. p.  
0 0 6 Rice in husk at the rate of—  
Nágli do. do.  
Wari do. do.

0 0 6 Local Fund Cess at the rate of one anna for each rupee of assessment on dhára and quasi-dhára lands.  
Revenue on account of khoti lands in which this rayat is an occupancy tenant.

Name of Thikán.	S.N. No.	Pot No.	Falni No.	Land. A. g.
Sonambi ... ..	8	1	0	0 30
Rátámbi ... ..	125	6	0	0 10
Kawal-taimbi ... ..	128	0	4	4 9
Masanwate... ..	130	0	2	2 5
Kamath ... ..	142	3	0	1 10
Kúdété ... ..	150	2	0	0 20
				<u>9 4</u>

*Details as to payments due on Khoti lands cultivated during the current year.*

K. m. ps.	Assessment in kind,	No. of Thikán.	S.N. No.	Tot. No.	Falni No.	Land. A. g.	Grain Produce. M. p.	Khot's Share. M. p.
1 2 8	Rice in husk.							
0 8 0	Rátámbi ...	125	6	0	0 10	4 0	0 2	
	Sonambi ...	8	1	0	0 20	12 0	6 0	
						<u>0 30</u>	<u>16 0</u>	<u>8 0</u>
0 2 0	Nágli.							
	Kawal-taimbi	128	0	4	2 0	6 0	2 0	
0 1 0	Wari.							
	Kawal-taimbi	128	0	4	1 5	3 0	1 0	
0 1 8	Harik.							
	Kawal-taimbi	128	0	4	0 25	4 8	1 8	
0 2 0	Til.							
	Masanwate	130	0	2	1 5	6 0	2 0	

160 bundles of rice straw at the rate of twenty bundles per each maund of rice.

FORM OF RAYAT'S RECEIPT-BOOK—continued.

B 514-97

Fair Weather Crops.

	A. g.	M. p.	M. p.
0 7 0 Rice in husk.			
Kamath ... 142 3 0	0 25	10 0	5 0
Kudété ... 150 2 0	0 20	4 0	2 0
	<u>1 5</u>	<u>14 0</u>	<u>7 0</u>

0 1 0 Kad-Dán.			
Kadvé			
Kamath ... 142 3 0	0 25	2 0	1 0

140 bundles of rice straw at the rate of twenty bundles per each maund of rice.

1 2 8

K. m. srs.

0 1 24 Assessment in weight.

K. m. srs.

0 0 4 Half of the produce of betel-nut in S. N. 8, Pot No. 1, weighing 8 sers.

0 1 20 Half of the sugar-cane produce (jaggery) in S. N. 150, Pot No. 2, weighing 3 maunds.

0 1 24

No.

300 Fruits.

No.

250 Half of the jack-fruit in Gawtan land and S. N. 130, numbering 500.

50 Half of the cocoanuts from 2 coconut trees in S. N. 130, in all 100 cocoanuts.

300

SPECIAL LOCAL LAWS.]

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[PART XVIII.]

FORM OF RAYAT'S RECEIPT—BOOK—continued.

[PART XVIII.]

				<i>Details of payments due.</i>			
Nature of item.		Amount.		Name of item.		Amount.	
<i>In Cash.</i>		Rs. a. p.		<i>In Weight.</i>		K. m. srs.	
Cash	...	9	12 11	Betel-nut	...	0	0 4
				Sugar-cane produce	...	0	1 20
				(jaggery)	...	0	1 20
<i>In Kind.</i>		K. m. ps.		<i>In number.</i>		No.	
Rice in husk	...	0	15 6	Jack-fruit	...		250
Nágli	...	0	2 0	Coccanuts	...		50
Wari	...	0	1 0	Bundles of rice straw.	...		300
Harik	...	0	1 8				
Til	...	0	2 0				
Kadwé	...	0	1 0				

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*Explanatory Notes.*

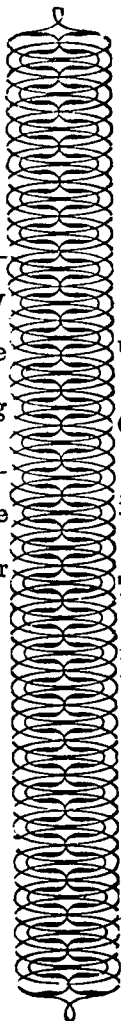
1. When value is paid in lieu of grain assessment, the quantity of grain is to be credited and the value paid is to be shown in the body of the entry.
2. The balance outstanding at the end of the year should be shown in detail for each year.
3. It will be only necessary to give full details of Survey, Pot, and Falni Numbers, acres and assessment once in five years, but in the meantime should any numbers, &c., be deducted or added on, then full particulars showing the additions or deductions to be given.
4. When value is recovered in lieu of grain assessment during the period of attachment of a village by Government, the amount should be shown on the debit side and the quantities of all kinds of grain for which the money is paid should be shown separately in the body of the entry. There is no necessity for showing similar details on the credit side. During the khot's management remark No. 1 is to be followed.
5. In the case of a pure khot village or a tenant-at-will, of course, no details as to Dhára, Daspata, &c., need at all be given.
6. All receipt-books are to be written up as shown in this form, viz., Jamábandi on the debit side and the receipts on the credit side; or, if convenient, Jamábandi may be written in detail first and then receipts immediately below.

[SPECIAL LOCAL LAWS.]

FORM 4.

No.

No.



\_\_\_\_\_ is appointed  
 is appointed under Section 29 of Bombay  
 Act I. of 1880 by the Collector of the \_\_\_\_\_  
 District of Ratnágiri to be Managing \_\_\_\_\_  
 Khot of the village of \_\_\_\_\_  
 Táluka \_\_\_\_\_ in the \_\_\_\_\_  
 aforesaid District for the revenue year \_\_\_\_\_  
 188 .

\_\_\_\_\_ is appointed  
 under Section 29 of Bombay Act I. of 1880 by the  
 Collector of the District of Ratnágiri to be Manag.  
 ing Khot of the village of \_\_\_\_\_  
 Táluka \_\_\_\_\_ in the aforesaid  
 District for the revenue year 188 .

Mámlatdár.

Mámlatdár.

Date \_\_\_\_\_

Date \_\_\_\_\_

#### IV.—RULES UNDER THE INLAND CUSTOMS ACT, 1875.

##### RULES APPLICABLE TO THE PROVINCE OF SIND.

1. In the following Rules, the word 'Commissioner' means the Commissioner in Sind, and the word 'Collector' in any provision of these rules, includes (a), any revenue officer in independent charge of a district; and (b), any officer not lower in rank than a Mukhtyárkar duly authorized by the Governor of Bombay in Council to discharge the functions of a Collector under such provision.

2. 'Manufacture of salt' in these rules does not include the excavation or removal of natural saline deposits or efflorescence.\*

#### CHAPTER I.

##### *Of the manufacture of salt.*

3. No salt shall be manufactured in any part of Sind except in the Karráchi, Hyderabad, Shikárpur, and Upper Sind Frontier districts.

4. The manufacture of salt is authorized, subject to the conditions next hereinafter prescribed, in the Karáchi, Hyderabad, Shikárpur, and Upper Frontier districts.

5. On all salt manufactured in any of the said districts, there shall be levied a duty at the rate of Rs. 2-8-0 per Indian maund.

6. Any person wishing to manufacture salt in the said districts may apply to the Collector for a license.

*Application for license to manufacture salt.* In case of refusal, an appeal shall lie to the Commissioner, whose orders shall be final.

The license shall be in the form given in the Schedule hereto annexed, and shall be signed and issued by the Collector.

7. The manufacture of salt, and the storage and sale of the salt manufactured shall be carried on in conformity with the conditions of the license, and under the supervision of the Revenue and Salt Establishments.

8. No salt shall be removed from the place of manufacture for the purpose of storage, or after storage from the place of storage for the purpose of re-storage, to any other place, except under the written authority of the officer in charge of the works; and all salt removed under such authority shall be weighed previous to removal in the presence of such officer, or other officer whom he may depute.

\* Saltearth is not a "saline deposit or efflorescence." (G. R. 3674 of 6th June 1882).

9. No salt shall be removed for consumption from the place of manufacture or of storage unless covered by a permit certifying that duty at the prescribed rate has been paid on it.

10. Previous to removal under Rule 9, the salt shall be weighed in the presence of the officer in charge of the works, who shall enter on the permit the weight of the salt removed and the date of removal, and shall certify that he has personally weighed the salt, and that no greater quantity has been removed than that mentioned in the permit.

11. Licenses may be cancelled by the Collector, giving one month's notice, or on the application of the licensee.

In the case of cancelment of license for infringement of its conditions, no notice shall be necessary.

12. Within the limits of the districts mentioned in Rule 4, no person shall have possession and sale of salt within limits of districts, salt exceeding twenty seers in weight in his possession, or shall sell any salt without a license from the Collector.

This Chapter not to apply to manufacture by Government.

13. Nothing contained in this Chapter shall apply to the manufacture of salt by or on behalf of the Government.

## CHAPTER II.

### *Of the possession and sale of salt in the vicinity of natural salt deposits in Sind.*

14. The area defined for the purposes of Section 10, Class (f) of the Inland Customs Act, 1875, round each natural salt deposit in Sind, shall extend to a distance of ten miles from the boundary of such deposit on all sides. Such an area is hereinafter termed a "protected area."

15. No person shall possess any salt within a protected area unless accompanied by *rawanna* or certificate covering the same, as hereinafter provided.

16. Any person wishing to remove salt from the deposits shall first pay the price into such Government treasury as the Commissioner may from time to time appoint, and shall receive in return a *dákhila* or receipt.

17. He shall present the *dákhila* with a written requisition or *darkhást* to the Collector, and the Collector shall thereupon grant a permit or *rawanna* signed by himself and sealed in his presence.



18. The *rawanna* shall be current and valid for  
 Period of currency of such period, not being less than  
*rawanna.* five days or more than six  
 weeks, as the Commissioner may from time to time  
 prescribe.

But when a *rawanna* is presented at the deposit  
 and the salt is ready for delivery and is tendered to  
 the holder more than seven days previous to the  
 expiry of such period, such *rawanna* shall cease to  
 be valid on the expiry of seven days from the  
 date on which the salt has been tendered, unless the  
 officer in charge of the deposit by an order endorsed  
 upon the *rawanna* allows it to run on for its full  
 period or any portion thereof.

The period of currency shall count from the day  
 on which the *rawanna* is delivered to the applicant,  
 that day being included and being noted on the face  
 of the *rawanna*.

19. The Commissioner may from time to time  
 make rules to limit the number  
 Limitation of num- of *rawannas* with reference to  
 ber of *rawannas.* the quantity of salt to be deli-  
 vered to any person at one time, and may fix the  
 minimum quantity of salt to be covered by a single  
*rawanna*.

20. On a *rawanna* being presented at the depo-  
 Examination and en- sit and salt being issued there-  
 dorsement of *rawanna* under, the officer in charge be-  
 at the deposits. fore allowing such salt to be  
 removed, shall ascertain that such *rawanna* is still in  
 force and covers the amount of salt being issued;  
 and shall then endorse such *rawanna* and return it  
 to the purchaser.

21. When on the application of a purchaser salt  
 Removal of salt deli- is got ready for delivery and  
 vered to purchaser. is tendered to him, he shall  
 remove it that same day to a  
 distance of at least one mile from the deposit, unless  
 the officer in charge of the deposit, by an order en-  
 dorsed on the *rawanna*, permits him to keep it with-  
 in a shorter distance.

22. If a purchaser desires to divide the despatch  
 Divisions of salt un- of salt covered by the *rawanna*,  
 der despatch. he shall apply to the Collector  
 who issued the *rawanna* and  
 the Collector shall issue as many partition or *atráfi*  
*rawannas* as may be required, and cancel and resume  
 the original *rawanna*.

23. If anything occurs to prevent the purchaser  
 Renewal of *rawanna.* taking delivery of the salt  
 in time to remove it from the  
 protected area before the expiry of his *rawanna*, the  
 Collector may in his discretion, but subject to such  
 restrictions as the Commissioner may from time to  
 time impose, renew such *rawanna* at any time not  
 more than six months from the date of original issue.  
 If application for renewal is made later than one week  
 before the expiration of the original *rawanna*, it shall  
 be complied with only on the applicant paying a fee  
 of one-twentieth of the price originally paid.

The currency of the fresh *rawanna* shall not exceed the limits prescribed under Rule 18

24. If renewal be required in respect of a portion  
Renewal in respect of only of the salt, partition *rawanna* must be issued as provided for in Rule 22.  
a portion of the salt.

25. Applications for renewal, except as provided  
Further renewal, in Rules 23 and 24, shall be forwarded for the orders of the Commissioner, who may, to protect traders from unmerited loss, authorise such further renewals as he may deem fit.

26. The deposit of salt for retail sale to the people inhabiting a protected area  
Deposit of salt for retail within the protected area. may, subject to any conditions prescribed by the Commissioner, be permitted at any place within the limits of such area approved of by the Collector. The *rawanna* designed to cover such deposit shall be endorsed by the Collector for that purpose, and shall remain in force for a period not exceeding four months.

27. Every person retailing salt under such a  
Procedure in retailing salt. *rawanna* shall keep a register of sales daily written up, and shall give to each purchaser a certificate stating the date of sale, the name of such purchaser, and the quantity purchased.

28. A certificate given under Rule 27 shall  
Effect of certificate of retail sale. cover the salt sold under it while in the possession of the purchaser as if it were a *rawanna*.

29. When a *rawanna* is lost or destroyed, the  
Grant of duplicates of lost *rawanna*. person to whom it was granted may make application to the Collector for a duplicate, and with his application shall deposit with the Collector an amount equivalent to that paid for the original *rawanna*, plus five per cent. on the same as a fee. The Collector may thereupon grant a duplicate *rawanna*.

On the expiry of the currency of the original *rawanna*, if it has not been utilised, the amount paid for such *rawanna* shall be refunded. The extra five per cent. shall be retained and credited to Government, unless the Collector thinks fit to refund the whole or any portion of it.

30. When any salt is stopped for examination  
Procedure on stoppage for examination. within the protected area by a Salt Officer, the *rawanna* covering the despatch shall be presented by the trader or his agent to such officer, who will satisfy himself that it is genuine document, and that its currency has not expired, and may then proceed to examine and superintend the weighment of the despatch.

He may weigh at the Government scales either the entire despatch or such proportion of it as may be prescribed from time to time by rules to be issued by the Commissioner.

31. If only a portion of the despatch is weighed, Procedure on excess and any excess is found over being found on partial the quantities specified in the weighment. *rawanna*, the weight of the whole despatch may, unless the trader objects, be calculated proportionately.

32. If on weighment of the salt it is found to exceed the quantity entered in the *rawann*, the following practices shall, as a general rule, be observed by the Officer in charge of the post:—

- (a) If the excess is not more than one per cent., he shall allow the despatch to pass.
- (b) If the excess is more than one and not more than five per cent., he shall, on submitting his report under Section 21 of the Act, recommend that the despatch be released on the trader paying a sum equal to double the Government price of the excess.
- (c) If the excess is more than five per cent., or, in any case, if there be reason to suspect fraud, he shall recommend confiscation.

### CHAPTER III.

#### *Of the seizure, disposal or destruction of things liable to be seized or destroyed under the Act.*

33. When anything is seized and detained under the Act or the rules made under the Act, it shall not be released until all duty, penalties and charges due on account thereof have been paid by the owner to the officer who is in possession of such thing.

If the thing is reported for confiscation, it shall not be released unless orders for the release are received from competent authority.

34. If an animal is so seized and detained, the Provision for keep of owner shall provide for its animals seized. due care and keep, in default of which the animal may be sold to defray charges.

35. If orders are received from competent authority for the release of any thing seized and detained, and no duty or penalty is payable in respect of such thing, it shall at once be given up to the owner or his agent, on his paying all charges incurred.

36. Should no one be present to receive the thing released, the officer in charge shall do his best to give notice to the owner of the order of release, and shall cause a similar notice to be affixed at the salt *chauki* and at the Collector's office.

If within two calendar months from the date of the notice no person entitled to receive the thing claim it, and pay all charges incurred, and the proceeds placed in deposit.

Sale of things un-claimed.

Lapse of proceeds to Government.

After a further period of four calendar months, the proceeds shall be forfeited to Her Majesty.

37. If any duty is leviable, or penalty is imposed by competent authority, in respect of the thing seized, unless such duty or penalty, together with all charges incurred, be paid within three days of the receipt of the orders of competent authority for release subject to such payment, the thing shall be sold, and from the proceeds, the duty, penalty and charges shall be deducted, and the balance made over to the owner or his agent.

Procedure where any duty or penalty is payable.

Should no one be present to receive the money, notice, as under Rule 37, shall be given, the money being kept in deposit for two calendar months.

Lapse to Government.

If not claimed within this period, it shall be forfeited to Her Majesty.

38. When orders are received from competent authority for the confiscation of anything seized and detained, it shall, with all convenient despatch, be sold or destroyed as the Collector may direct.

Sale or destruction of things confiscated.

39. When a Magistrate declares the confiscation of works, materials or implements, under Section 11 of the Act, they shall be sold or destroyed by dismantling or otherwise under the orders of the Collector.

Sale or destruction of works and materials confiscated.

#### CHAPTER IV.

##### *Subsidiary Rules.*

Power to make subsidiary rules and prescribe forms.

40. The Commissioner may make subsidiary rules and prescribe all forms necessary for the administration of the Act and these rules.

#### SCHEDULE (see Rule 7.)

##### *Form of license to manufacture salt.*

License to manufacture, store and sell (*here specify the quantity of salt to which the manufacture is to be limited*) Indian maunds salt at in the district of is hereby granted to (*here mention names of licensees and their agents, if any,*) under the following conditions, the infraction of any

of which shall involve penalties under Act VIII. of 1875, and the suspension or cancelment of this license:—

1st.—That the rules prescribed by the Governor General in Council under the said Act, and any subsidiary rules which may be issued by the Commissioner, shall be strictly observed by the licensee, his agents and servants.

2nd.—That none but good salt capable, in the judgment of the officer in charge of the works, of bearing the Government duty shall be manufactured. All inferior salt shall be thrown back for re-dissolution in the salt-wells or pans in the presence of such officer.

3rd.—That the licensee shall manufacture Indian maunds salt within        days from the date of this license, and shall remove the whole of the said quantity of salt on payment of duty at the prescribed rate before the (*here mention date*). If the whole or any part of the said quantity of salt shall not have been removed on payment of duty at the prescribed rate before the (*here mention date*), all salt then remaining at the place of manufacture or storage shall be forfeited and sold by auction by the Collector, who, having deducted from the amount so realized the duty leviable on the quantity of salt sold and all expenses attendant on the sale, shall make over the balance, if any, to the licensee.

4th.—That a penalty of rupees six per maund shall be paid by the licensee for all salt stolen or made away with, either from the place of manufacture or storage, whether with or without his knowledge, and that, until such penalty shall have been paid, the licensee shall not sell or remove any salt from the place of manufacture or of storage.

5th.—That salt shall be manufactured and stored at no places other than those hereinafter designated without the consent in writing of the Collector (*here describe the places of manufacture and of storage*).

This license shall have effect from the date hereof until the (*here mention date*) or until cancelled.

The Collector may, at his discretion and by order given in writing, extend the period of currency of this license.

District

Dated

Collector.

V.—RULES REGARDING ALLUVION AND DILUVION, OWING TO CHANGES IN THE COURSE OF THE RIVER INDUS, OR OTHER WATERS, IN THE PROVINCE OF SIND.

1. Any land, separated from the main banks of the river or sea-shore by a channel which contains water throughout its length during the whole year, is to be considered an island.

2. Islands newly thrown up by the river or sea are the property of Government.

3. All new land not separated from the main land by a channel containing water throughout its length during the whole year, is to be considered as the property of the owner of the old land to which it is annexed, subject to Government assessment in the cases provided for in the rules below.

4. These rules hold good only in cases of lands newly thrown up by the river in such a manner as to make it impossible to identify them with any lands which may have previously existed on the same spot, and been since swept away. If the river, by a sudden change in its course, *cut off a portion* of an estate without gradual encroachment, so as merely to separate such portion of land from the rest of the estate to which it previously belonged, without destroying the identity or preventing the recognition of the land so cut off, then the land, on being clearly and unmistakeably identified, will continue to be held on the same tenure as before its separation.

5. But no weight should be allowed to the pretended recognition of lands which have been so entirely swept away at some previous period, that they disappeared during the whole of a season, and which, on the river again changing its course, are supposed to re-appear merely because in situation or composition they somewhat resemble those previously swept away. These would come under Rules 2 and 3.

6. Where lands bordering on the river are leased out by Government, it is to be the rule that whenever  $\frac{1}{10}$ th of the land, or a portion of the land yielding  $\frac{1}{10}$ th of the rental, may be swept away, the lessee can claim a re-settlement of the estate. On the other hand, the Government can assert no claim to assess any increment to lands so leased, unless it amount in extent or produce to more than  $\frac{1}{10}$ th of the estate leased.

7. This rule should be observed even though no provision for such a contingency may have been made in the original lease.

8. When a revision of settlement takes place under these rules on the plea of diluvion, if the total assets of the whole estate settled be found to be from any cause, as large as, or larger than, they were computed to be at the time of settlement, the claim for reduction in the lease will be disallowed. If they be less, a proportionate deduction will be allowed, the assessment being calculated on the whole existing assets, in the same manner as when the settlement was originally made.

9. And when Government claim an increase of assessment, on account of increment above  $\frac{1}{10}$ th, the lessée may, at his option, either have the whole estate resettled, or come under a new engagement, for the sum which may be demandable upon the newly accrued portion alone.

10. Remissions of assessment granted on account of diluvion in fixed leases, are to be reported to the Commissioner; and likewise increase of assessment on account of alluvion.

11. Holders of lands in jāghir, or on other rent-free tenure, are to be left in possession of all lands attached to their estates under Rule 3, provided the increment do not exceed, by more than 10 per cent., the land which they held at the date of the latest confirmatory grant issued by competent authority.

12. If the increment exceed 10 per cent., all lands, beyond those previously held under sanction of competent authority, will be liable to assessment, but remain the property of the holder of the original rent-free estate.

13. In cases, however, where a certain fixed quantity of land has been granted rent-free, and not a village *mukan* or estate, then the holder can have no claim on any increment to his original lands.

14. If any claim being preferred by Government to assess lands newly attached to rent-free estates it be proved that more or an equal amount of land has, since the date of the last confirmatory grant to the rent-free holder, been lost by diluvion from the same estate, then the claim to assess shall be disallowed.

15. This plea is in no case to hold good, with reference to lands which had been swept away before the conquest of Sind.

16. If a rent-free estate be entirely carried away the holder will have no claim to a new grant, nor in the event of new lands being subsequently formed by the river again receding will the rent-free estate be revived. The new lands will be an increment to the estate to which they are attached under Rule 3.

17. Where villages or estates have been granted subject to payment of a quit-rent, Government will not claim to assess any increment until it reaches 10 per cent.; when it exceeds 10 per cent., the whole of the increment will be liable to the ordinary assessment.

18. The same rules which would apply to

- Example.*  
 A holds a Jaghir  $\frac{1}{4}$  of the Government revenue of the village of Syudpur producing 10,000 Rs. per annum. alienations, or leases of the whole Government share shall be applicable where only a fractional portion of such share has been alienated, the addition or deduction, as the case may be, being proportioned to the extent to which the rights of Government may in each instance have been alienated.
- (a) Case. Land producing Rs. 500 per annum is swept away. A will receive only  $\frac{1}{4}$  of the remaining Rs. 9,500.
- (b) Case. A similar amount of land is added. A will then receive  $\frac{1}{4}$  of Rs. 10,500.
- (c) Case. Land yielding a revenue of Rs. 2,000 is swept away. A will receive only  $\frac{1}{4}$  of Rs. 8,000.
- (d) Case. Land yielding Rs. 2,000 is added. A has still a right to only  $\frac{1}{4}$  of Rs. 10,000.
- (e) Case. The village in 1848, when the grant was confirmed to A, yielded Rs. 15,000 Government Revenue, though latterly, the value has been only Rs. 10,000. In the case if land yielding Rs. 2,000 be added, A will receive a fourth of the additional Rs. 2,000 as well as of the Rs. 10,000.

19. Claims founded on grants by competent authority, specifying particularly the alienation of alluvial land formed by increment must be decided specially on consideration of the terms of the grant.

20. If cases should arise in the Civil Courts involving questions of alluvion and diluvion, the litigants should be called upon to prove, if possible, the local usage; and by that, if the practice be clear and free from doubt, the Court should decide all cases relating to alluvial land between the parties where estates may be liable to such usage. Where this proof fails, the Court should decide in the spirit of the above rules.