

321. Neglect of duty which is either gross or persistent should be followed by removal from office. Minor breaches of rule or acts of negligence may be punished—

Punishment for neglect of duty.

(a) by the forfeiture of the whole or part of the *pachotra*, or

(b) by suspension from office for a term not exceeding a year.

Orders attaching the *pachotra* usually only relate to that due at the next harvest, and in no case should the *pachotra* of more than two harvests be declared forfeit. A substitute may be appointed to do the work of a headman under suspension.\*

322. Considering that one of the chief duties of a headman is to aid in the prevention and detection of crime, he ought to be removed from office if convicted of any serious offence. If he is sent to jail for a year or more, the Deputy Commissioner has no choice, he must dismiss him; otherwise he has a discretion. Every petty breach of the criminal law need not be magnified into a ground for dismissal. The conditions of life in a Panjab village are such that a man is very liable to be hauled before a magistrate for acts, or alleged acts, which are offences under the Indian Penal Code, but which it is an abuse of language to qualify as crimes. The only rule that can be laid down is that, if the facts proved against a headman indicate that he is unfit to be entrusted with the duties of his post, he should cease to hold it. If he is shown to be dishonest or to consort with bad characters, obviously he should be dismissed. A conviction of theft or cheating proves him unfit to have charge of public money, an order to give security to be of good behaviour or trustworthy evidence of connivance with illicit distilling makes it clear that the offender cannot be relied on for help in suppressing crime or in enforcing the excise laws.

Commission of criminal offence as ground of dismissal.

323. Where the office of headman becomes vacant it is the duty of the *tahsildar* to report without delay regarding the appointment of a successor. It is convenient to use a tabular form for such reports, as information on certain points is required in every case, and any special features of a particular case can be noted in the brief remarks explaining the recommendation of the *tahsildar*.

Filling up of vacant posts.

324. Except in estates chiefly or wholly owned by Government much weight is attached to hereditary claims. The eldest fit son of the late *lambardar* should ordinarily be appointed, and, when there is no son, the nearest collateral relation according to the rule of primogeniture.† Where there are no near collaterals, the necessity of regarding hereditary claims disappears.‡ The nearest heir may of course be set aside for any reason which would justify his removal from office if he were already headman.§ Whether the claims of sons should be considered where a headman has been dismissed

Hereditary claims.

\* Land Revenue Rule 186.

† Land Revenue Rule 179 (i).

‡ Land Revenue Rule 179 (i), (a).

§ Land Revenue Rule 179 (i), (c).

depends on circumstances. If the ground of dismissal has been insolvency [the son will] be subject to the same disqualification; if serious misconduct, it can rarely be wise to let a son succeed. Even when he is innocent of any share in his father's misdeeds, he will generally be under his influence. If the other reasons for excluding him seem insufficient, the mere fact that he owns no land during his father's lifetime does not bar his appointment. The property which he will inherit on his father's death may be taken into account as if it was already his own.\*

**Votes must not be taken.** 325. Even where hereditary claims have to be set aside, the votes of the landowners must not be taken as a means of deciding between rival candidates.†

**Appointment of female.** 326. Females are ordinarily ineligible. But a woman who is sole owner of an estate may be appointed, and special reasons may occasionally exist in other cases for departing from the general rule.‡

**Appointment when hereditary claims are set aside** 327. Where hereditary claims do not exist or have to be set aside the considerations governing appointments are those mentioned in paragraph 313.§

**Claims of transferees.** 328. Where a headman is removed because his own holding, or the whole estate or sub-division of the estate for whose revenue he is responsible has on account of arrears been transferred to a solvent co-sharer, put under direct management, or leased to a farmer, the transferee, manager, or farmer may, if the Deputy Commissioner thinks fit, be appointed *lambardar*.|| Where a headman loses office because he has mortgaged his holding, the mortgagee has usually no claim whatever to succeed him. But he may at the Deputy Commissioner's discretion be allowed to do so, where the revenue of the transferred holding is more than half of the whole revenue for the payment of which the late headman was as such responsible.¶ The appointments referred to in this paragraph are not in their nature permanent. When the temporary alienations from which they spring come to an end the transferee, manager, farmer, or mortgagee must lay down his office. A fresh selection is then made by the Deputy Commissioner having regard to the grounds stated in paragraph 313.\*\*

**Reduction of headmen when number is excessive difficult.** 329. Reference has already been made to the inconvenience caused by the needless multiplication of headmen's posts at the first regular settlements. Substantial men as heads of villages are among the most necessary instruments of a vigorous revenue and criminal administration. The framing of a general scheme of reduction requires a large amount of local knowledge and a patient enquiry into the history of past appointments in every estate affected. The files relating to the arrangements made at the first regular settlement and

\* Land Revenue Rule 179 (i), (b).

† Land Revenue Rule 179 (iii).

‡ Land Revenue Rule 179 (i), (d).

§ Land Revenue Rule 179 (i).

|| Land Revenue Rule 180 (i).

¶ Land Revenue Rule 180 (ii).

\*\* Land Revenue Rule 180 (iii).



those dealing with subsequent appointments must be scrutinized, and the enquirer must obtain a clear idea of the constitution of each estate and must trace the origin of its sub-divisions by examining the village administration paper (*wajib-ul-arz*)\* and genealogical tree (*shajra-nasb*).† The time for making such an enquiry is hard to find in the throng of daily duties which besets a Deputy Commissioner. Of course much of the information which he requires can be collected and put into shape for him by his subordinates, but even so the task is a heavy one.

330. The existing orders on the subject are quoted below.

General  
schemes of  
reduction.

"When a district is brought under resettlement, and the Settlement Officer finds that a reduction in the existing number of headmen is required in the interests of good administration in a considerable number of villages throughout such district or in any particular *tahsils*, he shall prepare a scheme for effecting the necessary reductions gradually as vacancies occur. In determining what appointment should be retained and what abolished, special attention should be paid to the composition of the village proprietary body, to the circumstances under which existing appointments became vested in certain families, and to the present position and influence of these families. The Settlement Officer's proposals should be reported for the Financial Commissioner's orders. The Settlement Officer should announce his proposals to the parties affected by them, and before the Commissioner forwards the scheme to the Financial Commissioner, he should allow an opportunity to headman whose appointments are recommended for future reductions of making any representations they may desire in the matter. Reduction sanctioned prospectively on such schemes by the Financial Commissioner may be carried out when the time comes by the Deputy Commissioner without any further reference to higher authority. If, however, a Deputy Commissioner considers, when the vacancy occurs, that a reduction thus sanctioned should for any reason not be carried into effect, he shall report the case through the Commissioner for the Financial Commissioner's orders. A similar scheme may at any time, for sufficient reason, be prepared by the Deputy Commissioner of a district not under settlement with the Financial Commissioner's previous approval."

331. In circulating these orders the Financial Commissioner remarked:—

Instructions  
of Financial  
Commissioner.

"The policy which has now been deliberately affirmed must be effectively carried out. A general measure affecting all districts or even many or several contiguous districts would be open to obvious objection. \* \* \* But Commissioners should bear the matter in mind when making their tours and discuss it with Deputy Commissioners; and, in the case of

\* See paragraphs 295-296 of the Settlement Manual.  
† See Appendix VIII to the Settlement Manual, ¶

districts or parts of districts where the number of headmen is excessive, and a reduction appears to be required in the interests of the administration, make proposals in accordance with the last sentence of the (orders) quoted above. It must, however, be understood that such proposals should not be made unless the Commissioner is satisfied that the circumstances of the district, the amount of work which the Deputy Commissioner has to perform, and the qualifications of the Deputy Commissioner himself are such as to admit of his doing justice to the subject. It is not every officer in charge of a district who possesses the somewhat special aptitude required for the preparation of a successful *lambardari* reduction scheme. An ill-considered scheme, still more a scheme hastily or carelessly framed, would do nothing but harm locally, and would throw upon superior officers a great burden in the way of correcting mistakes.”\*

Casual  
proposals for  
reduction.

332. “Casual proposals for the reduction in the number of headmen in an estate should be made to the Financial Commissioner by transmission of the files in original through the vernacular office, together with an English abstract in tabular form.†”

“When a Collector decides to propose a casual reduction, he shall intimate the fact to all the parties interested, viz., those whose names are entered in columns 5 and 6 of the form, and shall give them sufficient opportunity to bring to his notice any objections any of them may think fit to urge against the proposed reduction. He shall cause his proceedings in this connection to be recorded in the vernacular file in detail, and shall also cause a detailed record to be made of such objections as are made to him. The Commissioner, in forwarding the case to the Financial Commissioner, shall specially notice all such objections, and, if necessary, he shall cause the objector or objectors to appear before him and give them a hearing before recording his opinion on the Collector’s proposal. He shall not ordinarily send on the recommendation for orders till the expiry of two months from the date of the Collector’s proposal.”

Chief head-  
men.

333. A device which was formerly adopted in order to lessen the inconvenience caused by the excessive number of *lambardars* appointed at the first regular settlements was the institution of the office of chief headman (*’ala lambardar*) in estates with several headmen. The plan was followed in the settlements made when Mr. Prinsep was Settlement Commissioner (1863—1871) and in some later settlements. The *’ala lambardar* must himself be a headman. Appointments are made with regard to the same considerations as are taken into account in filling up the post of headman, except that no hereditary claim can be pleaded.‡ When a vacancy occurs the most capable and influential of the headmen should be chosen. In addition to his ordinary *pachotra* on the revenue of the sub-division which he represents as headman, the *’ala lambardar* receives one per cent. on the revenue of the whole estate.§ Orders to be carried out by a headman may, if thought desirable, be addressed to the chief headman, and the latter is responsible that any orders issued are properly executed,

\* Financial Commissioner’s No. 2082, dated 28th March 1905.

† For the form see Revenue Circular No. 26.

‡ Land Revenue Rule 183.

§ Land Revenue Rule 185.

and should carry them out himself if the headman responsible fail to do so.\* It is generally admitted that the office of chief headman has served no useful end, and, when the settlements made under the supervision of Mr. Prinsep were revised, a large number of 'ala *lambardari* posts were reduced, and doubtless those which remain will in time disappear.

334. As already remarked *zaildars* represent the *chaudhris* *Zaildars* of former times. The existence and value of *chaudhris* was recognised at the time of the annexation of the Panjab, but the measures taken to maintain the influence of men of this class were not sufficiently definite and practical, and the position of *chaudhri* fell into decay. The credit of reviving it and of making it under another name a regular part of our administrative system belongs mainly to Mr. Prinsep. Almost everywhere in the Panjab, and even in so democratic a tribe as the Jats, there are men who stand a head and shoulders above the ordinary headmen, and whose influence extends not to one, but to a number of villages. If the proper men are found, and the higher officials of the district know them well and use them wisely, the work of administration is greatly assisted. In his *zaildars* the Deputy Commissioner has a ready means of getting into touch with his people, of understanding them, and getting them to understand him. He will find many pieces of revenue and administrative work in which he can utilize the services of the *zaildars*, and above all he has in them a powerful engine for the prevention and detection of crime.

335. In the closing paragraphs of the Settlement Manual the Formation of measures connected with the first introduction of the *zaildari* agency *zails* into a district and the principles to be followed in grouping estates into *zails* are described.

336. The duties of the *zaildars* are set forth under seven heads Duties of in the *sanads* † which they receive on appointment. Their functions *zaildar* with regard to crime are within their larger spheres similar to those of headmen within their villages. They are of very great importance, but this is not the place to describe them. Like *lambardars* they are bound to aid in all sorts of revenue work, and to report when Government buildings, roads, or boundary marks are out of repair. When called on to do so they notify throughout their *zails* all Government orders, and use their personal influence to secure prompt compliance with them. While obtaining from personal interference with the work of *lambardars* and *patwaris*, it is their duty to see that they perform it properly, and to inform the authorities of any failure to do so. Forbidden to intermeddle of their own motion with cases pending in the law courts, they can sometimes be employed with advantage as conciliators, or in making preliminary enquiries into criminal complaints, which appear to be probably the exaggerated reflections of petty village or family quarrels.

---

\* Land Revenue Rule 184.

† See Revenue Circular No. 27, paragraph 6, and Land Revenue Rule 170.

Duty of attendance on officers visiting their *sails*.

337. They must attend on Government officers who pass through their *sails*. This is a duty which is usually cheerfully performed, and which should always be enforced. A Deputy Commissioner should try to see all his *zaildars* at least once a year in or near their *sails*, and should encourage them to visit him from time to time at head-quarters. If they find that the district officer talks freely to them on matters of local interest, and encourages a frank expression of their views, they are sure to value these opportunities of meeting him.

Percentage of land revenue allotted for remuneration of *saildars* and *inamdars*.

338. For the remuneration of *zaildars* a sum is set aside out of the land revenue amounting usually to one per cent. If *inamdars* as well as *zaildars* are appointed an additional  $\frac{1}{2}$  per cent. is allowed. This deduction is made from assigned as well as from *khalsa* revenue. In the case of assigned revenue the highest contribution that can legally be taken is  $1\frac{1}{2}$  per cent. But the usual rate is  $1\frac{1}{4}$  per cent. as noted above, and more than  $\frac{1}{2}$  per cent. should not be devoted to the remuneration of *inamdars*.\*

Methods of remuneration.

339. There are two ways of treating the sum devoted to the payment of *zaildars*. Each *zaildar* may receive one per cent. of the land revenue of his own circle in the form of an *inam* paid out of the *jama* of some particular estate, generally that in which he himself is headman. Thus if the *zail* is assessed at Rs. 24,900, the *inam* will be Rs. 249, and the *zaildar* will keep back that sum when the revenue of his village is paid to Government. A better plan is to have *inams* arranged in different grades, the total being equal to one per cent. of the land revenue of the *tahsil* or district.†

Advantages of grade system.

340. The grade system gives the officer who fixes the limits of *sails* a much freer hand. It secures a fairer distribution when *zaildars* are first appointed, for it by no means follows that the *zail* which yields the biggest revenue is either the largest in area or the most troublesome to manage. Above all it enables the Deputy Commissioner to recognize good work by promoting deserving men on the occurrence of vacancies, and now and then to punish slackness by reducing a *zaildar* to an inferior grade. In order to make the system effective a *zaildar* appointed to fill a vacancy should always be put in the lowest grade. Even where the plan of graded *inams* is in force the *zaildar* gets his pay in the shape of an *inam* out of the revenue of some village. The reason is that to native minds this seems a more honourable form of payment than the receipt of money from the *tahsil* treasury.

*Inam* first charge on revenue of village from which payable.

341. The *zaildar's inam* is a first charge on the revenue of the estate from which it is paid. Partial suspensions or remissions therefore do not affect the *zaildar*, so long as the balance is large enough to cover his *inam*. If it is not, the deficiency should be made up to the *zaildar* from the revenue of some other village.‡

\* Section 28 (2) of Act XVII of 1887 and Panjab Government No. 180, dated 11th June 1906.

† Land Revenue Rule 171.

‡ Panjab Government No. 222, dated 11th November 1906,—Revenue Proceedings No. 6 of November 1908.



342. In choosing a *zaildar* the field of selection is usually confined to the headmen. Occasionally the most able and influential man in a *zail* may be a landowner or Government tenant, perhaps a *jagirdar* or pensioned native officer, who is not a *lambardar*. On a vacancy occurring such a man may be appointed, if the Commissioner of the division has previously accepted him as a suitable candidate.\* Care must be taken in putting forward in names that a pushing new-comer is not taken at his own valuation, and allowed to thrust aside deserving men of the old *chaudhri* class. Zaildar must as a rule be a headman.

343. It is true that it is a settled rule that, "in the appointment of *zaildars* regard shall not be had to any alleged hereditary claim." But as two of the chief matters to be considered are, "the candidate's personal influence and the degree in which he is by race or otherwise fitted to represent the majority of the agriculturists who reside in the *zail*" and the "services rendered to the State by (the candidate) himself or by his family," it is obvious that questions of descent cannot be wholly excluded. Influence is very commonly hereditary in certain families, and a man, who has done nothing to forfeit the respect in which his ancestors have been held in the countryside, may assuredly be allowed to urge in his own behalf the services they have rendered in the past as *chaudhris* and *zaildars*. The other points for consideration:— Qualifications of candidates.

(a) personal character and ability,

(b) extent of property in the *zail* and freedom from debt.†

344. It sometimes happens that the only suitable candidate is a minor. It may be found, especially in the hills, that to take the *zaildar* from any family but one involves a breaking up of old ties and a weakening of the means Government has of influencing the people. In such a case, if the representative of the family is a minor, one of two courses may be followed. The minor may be made *zaildar* and a substitute may be appointed to discharge during his nonage the duties of the office, or, if it is thought expedient, the post may be left unfilled for a time. Appointment of minor.

345. To assist him in deciding between rival candidates the Deputy Commissioner may, if he thinks fit, have the votes of the headmen taken in his own presence at some place within the *zail*. But this is not a course which it is usually well to adopt. The Deputy Commissioner is not bound to appoint the candidate who has most votes, but it is difficult to put him aside. Elections of this sort are still at odds with native ways of thinking. They do not supply any satisfactory proof of a candidate's real influence and a man of any position regards it as a much greater honour to be chosen for an office by the representative of Government in his district than by a popular vote. Votes of headmen may be taken.

\* Land Revenue Rule 166.

† Land Revenue Rule 167 (1).

‡ Land Revenue Rule 169.

*Inamdars.*

346. In many districts it has been thought expedient to supplement the *zaildari* agency by setting up a class of *inamdars* or *safedposhes*. The services required of an *inamdar* are within his own sphere of the same type as those rendered by a *zaildar*,\* but he receives a much smaller *inam*, and has no defined group of estates put under his charge. He should clearly understand that he is bound to assist in every possible way the *zaildar* in whose *zail* he resides. Occasionally services of a special kind are required by the condition on which the *inam* was originally granted. When *inams* are graded those of the lowest grade need not exceed Rs. 40 or Rs. 50, and Rs. 100 is a sufficient sum for a first class *inam*. The orders regarding appointment, loss of office, and succession are the same for *inamdars* and *zaildars*, subject in the case of the former to any special conditions imposed by Government when the *inam* was first granted. In some districts, e. g., Jehlam and Shahpur, there are no *zaildars*. The *inamdars*, called sometimes *ilakadars* or *halkadars*, perform all the duties of *zaildars*.

Punishment  
and dismissal  
of *zaildars*  
and *inamdars*  
and appoint-  
ment of  
substitutes.

347. The orders regulating the punishment and dismissal of *zaildars* and *inamdars* and the appointment of substitutes to perform their duties are practically identical with the corresponding orders in the case of headmen. A *zaildar* must be deprived of office when :—

- (a) he ceases to be a landowner in the *zail*, or has mortgaged his holding and delivered possession to the mortgagee,
- (b) his holding has been transferred or its assessment annulled on account of failure to pay land revenue,
- (c) he is sentenced to imprisonment for one year or upwards.†

*Zail books.*

348. When the *zaildari* agency is first introduced a *zail book* is drawn up. ‡ These should be of foolscap size, and should contain a map of the *zail* and the statistical table prescribed in Revenue Circular No. 27. On the appointment of a new *zaildar* a copy of the order passed by the Deputy Commissioner should be copied into this book. It is well to enter in it once a year a note on the conduct of each *zaildar*. Copies of entries in *zail books* should never be given to the *zaildar* himself or to any one else. It is also a good plan to give every *zaildar* a book in which the Deputy Commissioner and other superior officers who visit his circle can enter any notes they wish to put on record regarding the condition of the *zail* and the way in which the *zaildar* has been doing his work. A new Deputy Commissioner by glancing over this book when he first visits a *zail* quickly obtains some idea of local conditions and of the character of the *zaildar*.

---

\* Land Revenue Rule 174.

† See Land Revenue Rules, 188, 178, 186, 188 to 191.

‡ See paragraph 580 of the Settlement Manual.

## Book III.—Agricultural Statistics and Record of Rights in Land.

### CHAPTER IX.

#### HARVEST INSPECTION.

349. It is one of the chief duties of a *patwari* to inspect the crops of each harvest field by field before they are cut. This inspections <sup>Harvest in-</sup> is known as the *girdawari*. It usually begins on 1st October for the *kharif*, and on 1st March for the *rabi*, harvest, but the Commissioner of the division can change these dates after consultation with the Director of Land Records, when the special circumstances of any district make others more suitable. A few crops, chiefly melons and tobacco, are sown very late in the *rabi* season, and are gathered some time after the other crops of that harvest are got in. In villages where these extra *rabi* (*za'id rabi*) crops are grown a separate inspection of them is made about the middle of April. In some districts a crop inspection intermediate between the *kharif* and the *rabi girdawari* has been found necessary.

350. The object of harvest inspections is to collect accurate <sup>Objects</sup> information regarding— <sup>harvest</sup> <sup>inspections.</sup>

- (a) crops,
- (b) changes in rights, rents, and possession of land,
- (c) amendments required in the village map.

The first is indispensable for any sound method of land-revenue assessment and collection, the second and third are aids to the maintenance of a true record-of-rights in the soil. Only such changes need be noted in the harvest inspection register as must under the rules be embodied in the record-of-rights. Others should be entered in the *patwari's* diary.

351. Under the system which prevailed down to 1885 an attempt was made to bring to record yearly about the month of <sup>The system</sup> December the *kharif* crops which had been mostly reaped some <sup>in force</sup> weeks or months <sup>before 1885</sup> before, and the *rabi* crops which had been recently sown. The plan was in no case likely to yield trustworthy results, and, in the lack of proper supervision, it is not wonderful that the *girdawari* was often made by the *patwari* sitting at his ease in the village rest-house. The utmost that the most sanguine could hope from the old procedure was a return of the crops sown at each harvest. But in many parts of the Panjab such a return would be worse than useless, for it would lead straight to the most erroneous conclusions. In high and dry tracts it is hard to say whether the more important feature of times of drought is the shrinkage of the area sown or the expansion of the area on which the crops fail to come to maturity. The character of the season at the sowing time will decide which is the prominent factor in any particular bad harvest. The destruction of crops which are almost ready for the sickle is a common enough incident in riverain tracts.

Record of  
failed crops  
(*kharaba*)  
essential.

352. It is essential in any true record of crops to distinguish between those which ripen and those which fail. The latter are classed as "*kharaba*," the instruction regarding which is as follows :—

"When a crop is sown and dries up, or is destroyed by calamity, it should be returned as *kharaba*. In the same way, if the crop is much below average, a deduction from the whole area should be made; for example, a bad field of wheat, area 4 *bighas*, may be returned as wheat—3 *bighas*, *kharaba*—1 *bigha*. But this should only be done when the field is much below average, and the *kharaba* allowed should be only as much as is necessary to raise the whole crop of the area returned as under crop to the average of an ordinary harvest."

*Kharaba* in  
Canal Colonies.

353. In the lands irrigated by the Chenab and Jahlum Canals, and in lands under fluctuating assessment in some tracts which have recently been resettled, new rules for the record of *kharaba* have been introduced. Tables showing the "standard" yields of the crops are prepared. A crop which reaches that standard is called a sixteen-anna crop. Whether the standard is to represent an "average" crop or a "good" crop can hardly be said to have been yet decided. When seed fails altogether to germinate or the crop is worse than a four-anna one, the whole area is returned as *kharaba*. When it is equal to, or better than a four-anna, but worse than an eight-anna, crop, half is entered as *kharaba*; no deduction is allowed when it is equal to, or better than, an eight-anna crop.

Checking of  
*kharaba*.

354. The entry of *kharaba* is a matter which requires both honesty and sound judgment on the part of the recorder, and this branch of the *patwari*'s work should be carefully tested by all supervising officers. But where the record has been made with care and is generally sound, it is well to refrain from making petty alterations here and there, which affect but slightly the main result. More than ordinary care is of course required in tracts under fluctuating assessment, where the amount of the demand at each harvest depends directly on the area of matured crop. There are special rules as to the check to be exercised over the record of *kharaba* in such cases.

The *khasra*  
*girdawari*.  
Entries re-  
specting un-  
cultivated  
soils.

355. The harvest inspection book is known as the *khasra girdawari*. In this register and in the record-of-rights uncultivated land is classified as *banjar jadid*, *banjar kadim*, and *ghairmumkin*. The exact meaning of each of these terms is explained in the 267th paragraph of the Settlement Manual. Land which is not under crop, but which has not lain fallow long enough (*i. e.*, for four harvests), to be described as *banjar jadid*, is called *khali* (empty).

*Taradaddi*.

356. By a refinement, which serves no very useful purpose, another class is recognized under the name of *taradaddi i. e.*, under tillage. This term is applied to a field which bears no crop belonging to the harvest under inspection but "has been ploughed for the next harvest, or is occupied by trees or plants, which will fruit in the coming harvest." Examples are fields of cotton or cane



in the *rabi*. Cane, which is planted about March, and occupies the ground for ten or eleven months, is treated for statistical purposes as a *kharif* crop. Land is ploughed for cotton, another *kharif* staple, in the cold weather, and, where irrigation is available, the sowings also often take place before the *rabi* crops are cut. Orchards which fruit in spring are shown as *taradaddi* in the *kharif*.

357. The terms *barani*, *sailab*, *abi*, *chahi*, *nahri*, by which cultivated fields, and the crops grown on them are distinguished are explained in the 259th paragraph of the Settlement Manual. Where the moisture on which the crop depends is derived from a double source, two of these terms may have to be combined, e. g., *chahi-nahri*, *chahi-sailab*.\* Fields are classified according to their permanent character and crops according to the actual facts of their cultivation in the harvest under inspection. For example, *chahi* fields are often put under *barani* crops, and the converse sometimes happens.†

Classification of crops and cultivated soils.

358. As it is important to have a record of wells at work (*jari*) and out of use (*uftada*), a remark showing how the matter stands is entered against each field in which a well is situated. When a new well has been sunk the fact is noted.

Entries relating to wells.

359. There are columns in the harvest inspection register in which to show the ownership and cultivating occupancy of every field. Changes should be noted with care. It is only through the *khasra girdawari* that alterations in tenancies-at-will find their way into the record-of-rights.

Entries of owners and tenants.

360. Where one field has been divided into two, or the boundary of a field has from any cause undergone change, the *patwari* should make a rough measurement sufficient for the crop entries, and put a red cross opposite the field number in the remarks column to remind him that a correction of the village map is required.

Changes in fields.

361. When all the entries for a village are finished, the totals for each crop must be made out and entered in the crop abstract (*jinswar*) of the estate before work is started in another village. The uses of this very important statement will be described in a later chapter.‡ A statement in the same form is the chief of the statistical returns included in the village revenue register or notebook. As soon as the crop abstract has been checked and signed by the field *kanungo*, the *patwari* copies the entries into the corresponding form in this register, and sends the original to the *tahsil*. Promptitude in filing these returns is a matter of prime necessity, if any question regarding the suspension of any part of the land-revenue demand is likely to arise. The *kharif* statements should, if possible, all reach the *tahsil* by the 1st of November, the *rabi* statements by the 1st of April, and the extra *rabi* statements by the 1st of June.

The crop abstract (*jinswar*).

\* See paragraphs 440 and 451 of the Settlement Manual.

† See paragraph 260 of the Settlement Manual.

‡ See Chapter XVI; also paragraph 307 of the Settlement Manual.

Duty of  
*kanungos* as  
regards crop  
inspections.

362. Revenue officials of all grades should be made to understand that harvest inspections are the foundation of all effective land administration. While the *girdawari* is going on field *kanungos* of course spend the whole of their time in checking it. In October and March the tours made by the district *kanungo* should be devoted to the same work. In ordinary inspections the field *kanungo* accompanies the district *kanungo*, but during the *girdawari* the former has to accomplish so much in a short period that the latter is forbidden to call for his attendance.\*

Duty of *tahsildars* and *naib tahsildars*.

363. The responsibility of *tahsildars* and *naib tahsildars* should be steadily enforced. The standard to aim at is the inspection of every estate by one or other of these officers at each harvest before the crops are cut. But at present this is a counsel of perfection. Both officers cannot be in camp at once, and the harvests last for too short a time to admit of the results being observed and the records of them checked in every village. It is far better that the *girdawari* in one or two estates in each circle should be thoroughly checked than that a nominal inspection of it should be made in every village. The *tahsildar* and his deputy should so lay out their work that no part of their respective charges remains unvisited. They should have a clear idea of the state of the crops in every assessment circle and in all important villages, and special attention should be given to estates in which suspension of the demand is likely to be required. In bad seasons other work must give way to a thorough examination of the results of each harvest while it is still standing on the ground.

Duty of superior revenue officials.

364. The Revenue Assistant must be on tour throughout October and March, and must then give most of his time to the checking of harvest inspection work. The Deputy Commissioner should, if possible, help him by sending at the same time into camp some other member or members of the head-quarters staff. In times of drought especially, care must be taken to utilize Assistant and extra Assistant Commissioners to the fullest extent compatible with the carrying out of such judicial and executive work as must be done at head-quarters.

Duty of the Deputy Commissioner.

365. The Deputy Commissioner's own part does not consist so much in checking a few entries in harvest inspection registers in the field, which is all he could possibly accomplish, as in laying out the work of his subordinates, and obtaining a good general idea of the results of the harvest in the different parts of his charge by viewing the standing crops and examining the crop returns of the villages.

---

\* Land Revenue Rule 135.

## CHAPTER X.

## THE RECORD OF RIGHTS.

366. As explained in the fourth chapter the second of the objects of the reform of the *patwári* and *kanungo* staff effected in 1885 was to make possible the maintenance of a correct record of rights. The procedure which is employed to secure this end will be explained in the present chapter.

Second object of reform effected in 1885 the securing of an accurate record of rights.

367. It is needless to describe here the nature and contents of a standing record of rights, which is usually drawn up at settlement, and of the subsequent revised editions of it, whose legal description is "annual records", though in the great majority of estates they are prepared only at intervals of four years. The reader is supposed to be familiar with the XIVth chapter of the Settlement Manual, where these matters are fully discussed.\*

Nature and contents of records of rights described in Settlement Manual.

368. The Settlement Officer hands over to the Deputy Commissioner a record of rights for each estate, the chief document included in which is a *jamabandi*, that is to say, a list of owners' and tenants' holdings, with a detail of the fields contained in each, of the rent paid by each tenant and of the revenue due from each owner. It is the business of the Deputy Commissioner to keep this up to date. The provision contained in section 44 of the Land Revenue Act (XVI of 1887) attaching an equal presumption of truth to entries in standing records of rights and in annual records is a measure both of the care which should be bestowed on the drawing up of the latter and of the confidence felt by the chief framer of the Act that the maintenance of a correct record by the ordinary district was perfectly feasible.†

Duty of Deputy Commissioner to keep the record of rights up to date.

369. The law as to the circumstances under which the alteration of an existing standing record of rights or annual record is permissible is discussed in paragraphs 279—282 of the Settlement Manual, which should be read as part of this chapter.

Law as to change of entries in records of right explained in the Settlement Manual.

370. We are not here concerned with the elaborate procedure for the revision of the *jamabandi*, which is carried out when a complete remeasurement of an estate is ordered, for such remeasurement, as a rule, only takes place in connection with a general revision of record when a complete remeasurement is ordered.

Revision of record when a complete remeasurement is ordered.

\* See paragraphs 276—297 of Settlement Manual, and Appendices VII and VIII in the same volume.

† See paragraph 278 of the Settlement Manual.

reassessment of the land revenue. Should, however, the remeasurement of an estate become necessary at another time, the procedure will be that laid down in the VIIth Appendix to the Settlement Manual.

Forms of  
*jamabandi*  
and of list of  
revenue  
assignments.

371. The forms of the *jamabandi* and of the list of revenue assignments and pensions, which is included in the annual record, with instructions for their preparation, will be found in Revenue Circular 30.

Classification  
of rights to be  
recorded.

372. The rights, of which the acquisition or loss gives rise to an alteration in the record of rights, may be classified as follows:—

- |  |  |
|--|--|
| A. Rights of persons responsible to Government for land revenue. | 1. Landowners.<br>2. Mortgagees with possession.                 |
| B. Rights of persons responsible to landowners for rent.         | 3. Occupancy tenants.<br>4. Leaseholders.<br>5. Tenants-at-will. |

“Leaseholders” in this connection means persons holding land as tenants for periods exceeding one year on written leases.

Reports of  
acquisitions  
of right to  
*patwaris*.

373. The first three classes are legally bound to report to the *patwari* the right which they have acquired.\* If they fail to do so within three months from the date of acquisition they render themselves liable to a small fine.† Assignees of land revenue and mortgagees without possession are also bound to report, but their rights are not of a kind which must be recorded in the body of the *jamabandi*, though certain notes regarding them are made in the “remarks column” of that document.‡ Redemptions of mortgages must be reported by the landowners whose lands have been redeemed. For his knowledge of acquisition of title by leaseholders and tenants-at-will the *patwari* must rely mainly on his own observations and on the result of enquiries as to the cultivating occupancy of land made at the harvest inspections.§ Among the things which he has to enter in his diary are the deaths of tenants, owners, village officers, pensioners, and revenue assignees, the ejectment, absconding, or settling of cultivators and rightholders, the relinquishment, change, or renewal of any tenure and the execution of any lease or agreement for cultivation. Leaseholders and tenants-at-will are under no obligation to report to the *patwari*, but like all other persons whose rights are recorded in the *jamabandi* they are bound on demand to furnish him and any revenue officer engaged in revising it with accurate information.|| To aid in

\* Section 34 (1) of Act XVII of 1887. The sections mentioned in the notes to this chapter are sections of the Land Revenue Act, XVII of 1887.

† Section 39.

‡ For the procedure as regards revenue assignments see paragraph 23 of Revenue Circular 30 and the instructions appended to the *jamabandi* form in the same circular. For that relating to collateral mortgages, in which the landowner remains responsible for the payment of the land revenue, see instructions appended to the forms for the mutation register and the *jamabandi*.

§ See paragraph 359.

|| Section 40.



recording mutations is one of the duties set forth in the memorandum given to village headmen on appointment, and the *lambardar* of the *patti* in which a mutation takes place is expected to attest by his seal or signature the report made on it by the *patwari* for the orders of the revenue officer.

374. Registrars and sub-registrars send monthly to *tahsildars* Report of registered deeds. particulars of all registered deeds which purport to transfer agri-cultural land. The entries relating to each deed are made on a separate slip. The office *kanungo* forwards these slips to the field *kanungo* of the circle, who distributes them to the *patwaris* concerned.

375. The *patwari* keeps up a register of mutations in which Register of mutations. he records all acquisitions of rights of the kinds described in the preceding paragraphs, reported to him or which he "has reason to believe to have taken place," except those relating to land revenue assignments and undisputed mutations of tenants-at-will, "as soon as they are acted on." The last words do not occur in the Act, but in a rule framed under it.\* They were seemingly introduced to carry out the principle that the revenue officer who is revising a record of rights is concerned only with rights actually enjoyed by the persons claiming them.† But a mere entry in the register cannot cause any alteration in the *jamabandi* without an order by a revenue officer, and for the sake of convenience the *patwari* enters all transfers by registered deed, of which he has received intimation under the procedure described in the last paragraph. It is the duty of revenue officer to refuse to sanction the mutation in such a case unless he is satisfied that the transfer has actually been completed.‡

376. The form of the mutation register with instructions regarding the making of entries in it will be found in Revenue Circular 30. It is kept up in duplicate, one copy being retained by the *patwari* and the other sent to the *tahsil* to be attached to the *jamabandi* as an authority for the new entries which it contains. Copy of mutation register filed with jama-bandi. The *patwari's* report, the attestation of it by the field *kanungo*, and the order of the revenue officer are written only in the copy of the register to be filed with the *jamabandi*. It is enough in the *patwari's* copy to show how the case was disposed of by entering the briefest possible abstract of the order, and this abstract should be written by the revenue officer with his own hand. §

377. Within a week of writing an entry in the register the *patwari* must make it known by putting up a copy of it in some Public notice of mutations. public place in the village. This copy is taken from his own register, and does not include his report on the proposed mutation.

\* See Act XVII of 1887, Section 34 (3), and Land Revenue Rule 45.

† See paragraph 369.

‡ See also paragraph 20 of Revenue Circular 30.

§ See also general instructions appended to form of mutation register in Revenue Circular 30.

Officers on tour should see that the notices are published and that they continue to be exhibited until the cases to which they relate have been disposed of.

Undisputed entries relating to tenants-at-will.

378. The only alterations in the *jamabandi* which the *patwari* can make of his own authority are undisputed mutations of tenants-at-will. These are not entered at all in the register. When the new *jamabandi* is being compiled they are taken straight from the *khazra girdawari*.\* Disputed changes of tenants-at-will are treated exactly like other mutations.

Orders in mutation cases.

379. Orders in mutation cases can be passed by an Assistant Collector of either grade. In practice nearly the whole of the work is disposed of by *tahsildars* and *naib tahsildars*. In a country of small peasant proprietors the number of mutations to be attested annually is very large, and it is found necessary every year to appoint in some districts one or more extra *naib tahsildars* selected from the lists of accepted candidates and to invest them with the powers required for the disposal of business under Chapter IV of the Land Revenue Act. An appeal of course lies to the Collector against orders sanctioning or refusing mutation of names.

Mutation work largely done by officers of no great standing or experience.

380. It is clear from what has been just said that much of the mutation work is done by officers of small standing and little practical experience. It is also true that the work has often to be carried out very rapidly, if the important object of keeping the *jamabandi* up to date is to be attained. These are matters for reflection considering that each *jamabandi* now possesses the same authority as a record of rights drawn up at settlement.† Fortunately the bulk of the work is exceedingly simple; there is no dispute as to facts, and no opening for doubt as to the order that should be passed. But this is by no means true universally, and cases find their way into the mutation register which require both care and knowledge to decide correctly.

Supervision of work by Deputy Commissioner and Revenue Assistant.

381. A Deputy Commissioner ought not therefore to regard the few appeals which come before him as a sufficient test of the work. Unfortunately it cannot be effectively examined in the villages, because the sheets on which the *patwaris'* reports and the revenue officers' orders are recorded are sent straight into the *tahsil*. But when a Deputy Commissioner or a Revenue Assistant is inspecting a *tahsil*, the mutation work of the *tahsildar*, *naib tahsildar*, and any extra *naib tahsildar*, who may have been employed, should all be brought under review. With the *jamabandi* of an estate lying open before him it is perfectly easy to pick out all the holdings in which changes have been made, for in support of them references to the mutation register are always given. If the inspecting officer looks up each case in the register, he can soon satisfy himself as to the quality of the work of the reporting *patwari* and of the Assistant Collector. Having done so, he can turn back to the *jamabandi*, and see whether the changes ordered have been correctly made. If this process is repeated for several estates in

\* See paragraph 359.

† See paragraph 368.

the circles of the *tahsildar* and *naib tahsildar* respectively, the Deputy Commissioner cannot fail to gain a considerable insight into the value of the work done by both these officers, and by some of the *patwaris* and *kanungos* under their control. In examining mutation sheets special attention should be paid to orders passed in the absence of any of the parties. No order should be passed affecting the share of any right-holder who has not had an opportunity of appearing.

382. *Tahsildars* and *naib tahsildars* are expected to deal with revenue work, and especially with cases relating to *lambardars*, land revenue assignments, partitions, and mutations, within the estates in which the cases have arisen. The extent to which this obligation may be relaxed with the express permission of the Deputy Commissioner has been noted in paragraph 247. Mutations to be attested on the spot.

383. Every mutation order should show on the face of it the place where, and the date on which, it was passed, and that all the parties interested were present, or, if any one was absent, the way in which his evidence was obtained, or, if it was not obtained, what opportunity was given to him to be present. No detailed record of the statements of parties and witnesses is required, but the order should note briefly the persons examined and the facts to which they deposed.\* The facts on which the order is based should be stated succinctly but clearly, and the order must show without any possibility of doubt whether the revenue officer accepts the new entry proposed by the *patwari* as it stands, or, if it requires amendment, exactly what the entry is which is to be made in the *jamabandi*. The order must always show whether a share of the village *shamila* has been included in the transfer. Contents of mutation orders.

384. A person who, after receipt of notice by summons or proclamation to appear before a revenue officer at some place within the estate in which he ordinarily resides or cultivates land, fails to present himself becomes liable to a fine not exceeding Rs. 50†. This provision can suitably be put in force when the default is wilful and contumacious. But, where a man's attendance would involve an amount of inconvenience which under all the circumstances could reasonably be regarded as excessive, the proper plan is to take his evidence by commission. Attendance of parties.

385. Disputed cases may be referred to arbitration with or without the consent of the parties,‡ but little use is made of this provision of the Act. Where it is resorted to care must be taken to make the arbitrators understand that they must give a clear opinion as to the question whether the right claimed is actually enjoyed. If the revenue officer cannot satisfy himself as regards the fact of possession and thinks it inexpedient to refer the point to arbitration, he is required to make a summary enquiry as to title, and to direct that the person who appears to have the best right to the property shall be put in possession of it, and that his name shall be entered in the

---

\* Land Revenue Rule 284 (1).  
 Section 149.  
 Section 127 (2) (a).

## CHAPTER XI.

B'CG

## AGRICULTURAL STATISTICS.

Continuous  
agricultural  
statistics part  
of reform  
initiated in  
1885.

395. No part of the reform undertaken in 1885 was more valuable than that which provided for a reliable continuous record of agricultural statistics.

Old system

396. Under the old system a village note-book was prepared for each estate, which contained a useful set of statistics and the Settlement Officer's remarks on its assessment.\* In addition elaborate tables containing much valuable information were compiled for each assessment circle and tahsil.† But once the settlement was over no attempt was made to keep these records up to date; indeed with the agency then existing such an attempt would have been vain. This is clear from the fact that Settlement Officers found it impossible to make any use of most of the statistics which *patwaris* were supposed to collect, and could not even find statements of the results of past harvests on which they could place the least reliance.‡

Value of  
present con-  
tinuous record  
to district  
officers.

397. Fortunately this has all been changed. If a continuous record of agricultural statistics is essential for the assessment of the land revenue, it is equally important for the success of ordinary district administration. A Deputy Commissioner who makes an intelligent use of it will walk safely where the Deputy Commissioner who neglects it will stumble. Of course no study of figures can take the place of personal knowledge and sympathy, but the latter without the former will not save an officer from ill-considered action, and will not enable him to prove to his superiors, as our system of administration with reason often requires him to do, that the action he has taken or purposes to take is right. When a man is found decrying statistics there is often ground for suspecting that he is either too lazy or too ignorant to make a proper use of them.

Village note-  
book.

398. For each of the estates in his circle the *patwari* keeps up a vernacular revenue register or note-book which contains the following nine tables:—

- (1) Area Statement or *Milan Rakba*.
- (2) *Kharif* crop Statement or *Jinswar*.
- (3) *Rabi* crop Statement or *Jinswar*.
- (4) Revenue Account or *Jama Wasil Baki*.

\* Paragraphs 63, 67, 76, 80, 84 and Chapter XXV of the Settlement Manual should be read in connection with this Chapter.

† See paragraph 82 of the Settlement Manual.

‡ See paragraph 807 of the Settlement Manual.



- (5) Statement of Transfers of Rights of Owners and Occupancy Tenants.
- (6) Statement of Ownership, Mortgages, and Revenue Assignments.
- (7) Statement of Cultivating Occupancy.
- (8) Statement of Rent paid by Tenants-at-will.
- (9) Statement of Agricultural Stock.

The forms of these statements with detailed instructions for their preparation will be found in Revenue Circular No. 30.

399. In the first five entries are made year by year, in the next three every fourth year when a new *jamabandi* of the estate is drawn up. The return of agricultural stock is prepared quinquennially, and embodies the result of a special enumeration made by the *patwari* in all the villages in his circle every fifth year in the month of February. The originals of all these statements are sent to the *tahsil* as soon as the figures have been copied by the *patwari* in the corresponding forms in his village note-book. It would be hard to exaggerate the importance of their correct preparation,\* and the field *kanungo* is bound to help the *patwari* in compiling them, and is held personally responsible for their accuracy. Remarks registers.

400. The *tahsil* office *kanungo* keeps up a note-book for each village containing the nine registers mentioned above and a tenth relating to the assessment of the estate, the figures in which are compiled once for all at Settlement. The other returns only differ from those in the *patwari's* village note-book, in so far as the headings of the registers are printed both in English and in Vernacular and the entries are made in English figures. In the 10th or assessment statement the remarks of the Settlement *tahsildar* or Extra Assistant Settlement Officer, or of both on the estate are recorded,\* and it is the duty of the *tahsildar* to supplement these by brief notes on the subsequent history of the village in each year in which its *jamabandi* is drawn up,† and at other times, whenever any event occurs which seriously affects the wellbeing of the estate. Such a note should always be made when it becomes necessary to suspend the recovery of any part of the land revenue demand, and subsequent recoveries or remissions, and the reasons justifying them, should also be recorded. Office *kanungo's* copy of village note-book.

401. The office *kanungo* also keeps up note-books for each assessment circle and for the whole *tahsil* containing these ten registers. There are blank pages at the end for the entry by the *tahsildar* and Revenue Assistant of general remarks applicable to the assessment circle or *tahsil*. Field *kanungos* are required to report Assessment Circle and *Tahsil* note-books.

\* See paragraph 428 of the Settlement Manual.

† The *tahsildar's* remarks made in the year in which a *jamabandi* is prepared may be arranged under heads corresponding with those of Statements 2 to 9, and refer to any noteworthy changes which have occurred in the four years which have elapsed since the preparation of the previous *jamabandi*. Any further general remarks, which seem necessary, may be added. As to remarks by qualified *naib-tahsildars* see paragraph 54 of Revenue Circular 30.

the prices of produce prevailing at harvest time at selected centres in each assessment circle for entry in the circle note-books. The centres and the dates of report have been separately determined for each district. The prices should be those at which the produce of each harvest was actually disposed of. The field *kanungos* should fix the rates after careful enquiry from *zaminidars*, *sahukars*, &c., and his entries should be carefully checked by the *tahsildar* and Revenue Assistant. The rates given by the field *kanungos* for each circle should be compared with each other and large discrepancies enquired into. In the case of rice and cotton the prices of "unhusked rice" and "unginned cotton" should be quoted.

Importance  
of regular  
record of  
notes on  
villages by  
*tahsildars*.

402. *Tahsildars* should be encouraged to record such remarks regularly. The Deputy Commissioner and the Commissioner should discuss with him the contents of such notes at their *tahsil* inspections. This is a very practical way of testing his knowledge of his *tahsil* and, provided the notes are good ones, of adding to one's own. Any tendency to diffuseness must be discouraged, but one should not be too impatient with that common fault of native officials, if the remarks show that the writer has a real grasp of his subject.

Assessment  
Circle, *tahsil*  
and district  
note-books  
kept up by  
district  
*kanungo*.

403. The district *kanungo* keeps up for each assessment circle and *tahsil*, and for the district as a whole, registers in the same form as those maintained by office *kanungos* at *tahsils*.

English  
Village Note-  
book drawn  
up at  
Settlement.

404. A copy of the English village note-book as drawn up at the last settlement containing the remarks of the Settlement Officer on the estate and its assessment is kept at head-quarters. It is unnecessary to maintain the registers in this copy up to date. When he wishes to study the agricultural statistics of the estate for the years during which the current settlement has been in force, the Deputy Commissioner can always send for the *tahsil* copy of the village note-book. The original idea was that the Deputy Commissioner should record his own remarks from time to time in the English note-book kept at head-quarters. But a more convenient place for recording them is the Abstract Village Note-book introduced in 1896, and it is now the rule for Settlement Officers also to enter their remarks in the abstract and not in the detailed note-book.

Abstract  
Village Note-  
book.

405. The Abstract Village Note-book of an estate is a short statement, in which its chief agricultural statistics are exhibited in a single sheet of twenty-four columns, with space for annual entries and quinquennial averages covering a period of twenty years. Spare leaves for the entry of remarks are appended to each sheet. The abstracts for all the estates of a fairly large assessment circle can be brought together in a volume of moderate size. All the figures in the abstract with a single exception are taken straight from one or other of the first six registers in the vernacular village note-book. It is an excellent plan to enter on a separate sheet at the end of the volume the totals for the assessment circle. \* The volumes are kept at the *tahsil*, and

---

\* These totals should be taken straight from the assessment circle note-book.

it is the business of the office *kanungo* to make the necessary entries in them year by year. The question whether it is desirable to modify the ordinary form to suit local conditions is considered as each district comes under settlement.

406. The bringing together of the salient features of the agricultural and fiscal history of an estate into this narrow compass has been a very useful measure. When the Deputy Commissioner or any trained Assistant Commissioner goes on tour he should take with him the volumes of abstract village note-books belonging to the tract to be visited, and should constantly refer to them. But it must not be supposed that these abstracts supersede the detailed village note-books. When any close enquiry into the circumstances of an estate is required, the officer who makes it should have both the abstract and the note-book before him. If he is in camp he can easily consult the *patwari's* copy of the latter, and, if he wishes to see the assessment statistics embodied in Statement 10, and the remarks of the *tahsildar* and the Revenue Assistant, he can call for the office *kanungo's* copy.

Use of  
Abstract  
Village  
Note-book.

407. It is the duty of the Deputy Commissioner to enter remarks about any village in which circumstances arise that are worth recording. \* The ideal to aim at is the maintenance of a continuous revenue history of each estate to which the Deputy Commissioner of the day and the Settlement Officer of the future can refer to with confidence. Clear and concise contemporary notes by an experienced revenue officer who has inspected an estate and enquired into its circumstances either as part of the ordinary routine of a tour or for any special reason cannot fail to be valuable. Such notes may be written by the District Officer himself, or by the Revenue Assistant, if he knows English, or by any Assistant whom the Deputy Commissioner considers to possess sufficient experience.

Entry of  
remarks by  
Deputy Com-  
missioner.

408. Revenue administration, as remarked already, depends very largely on the success with which the records to which this chapter relates are kept up and made use of, and there is no subject to which Commissioners ought to give more attention during their inspection tours.

Duties of  
Commis-  
sioner with  
reference to  
agricultural  
statistics.

\* The XXVth Chapter of the Settlement Manual may usefully be referred to in this connection.

## CHAPTER XII.

RIVERAIN LAW AND REASSESSMENT OF LANDS AFFECTED BY  
RIVER ACTION.

Meaning of  
riverain  
law.

409. Riverain law is concerned with the effect on rights in land of river action, which is usually qualified according to its nature by the terms erosion, accretion, and avulsion.

Alluvion  
and Diluvion.

410. The two former are applied to the process by which land is sucked into the channel by the inset of a river at one place and fresh land exposed at another by its retirement. The loss and gain thereby caused are respectively described as diluvion and alluvion.\*

avulsion.

411. The word avulsion is an unhappy one to describe what takes place in the Panjab when part of an estate is transferred in a recognizable condition from the right to the left bank of the main channel of a river or *vice versa*. It suggests that a cantlo of land is torn bodily away from one bank and carried to the other bank or to a different part of the same bank. The Roman law provided for such cases, and presumably they are occasionally met with in small and rapid European streams, but they are unknown in the plains of the Panjab.† There a large river after it has penetrated some way from the hills has usually a wide valley bounded on either side by old banks or by broken land with a strong upward slope. These banks or slopes indicate the extreme limits of the wanderings of the stream. The valley is seamed with channels, some now dry all the year round except in heavy floods, some dry in the cold weather and running in the hot, and some in the case of the largest rivers containing water throughout the year. The main channel (*dhār kalān* in the vernacular of revenue officials) gradually gets silted up, and the force of the stream is diverted into some other bed, which in its turn becomes the principal one. This shifting of the stream from one bed to another may leave much of the land between them unaffected. Avulsion means, not the movement of land, but that of water.

Regulation  
XI of 1825.

412. These various kinds of river action are all provided for in Regulation XI of 1825, which was the law on the subject with which the first administrators of the Panjab had been familiar in the North-West Provinces. The new province was not subject to the Bengal Regulations, but twenty-three years after annexation Regulation XI of 1825 was expressly extended to it by the third section of the Panjab Laws Act, IV of 1872, and it is still in force.‡

\* These terms are borrowed from the Roman law. See the Institutes of Justinian, Book II, Tit. I, Section 20.

† See Institutes of Justinian, Book II, Tit. I, Section 21, and compare the provision as to avulsion in Section 6 of the Indian Alluvion Bill of 1878—"If a river carries away, by sudden violence a considerable and distinguishable part of a bank, and bears it to the opposite bank or to another part of the same bank," etcetera, as to which Mr. (now Sir James) Lyall remarked: "I do not believe that avulsion of the nature described in Section 6 really occurs." (Selections from the Financial Commissioner's Records, New Series No. 9, page 705).

‡ As amended by Section 4 of Panjab Act No. 1 of 1899. See paragraph 426.



413. The Regulation makes custom the rule of decision in all "disputes relative to alluvial land" between private owners, "whenever any clear and definite usage . . . may have been immemorially established."\* As an example of such a usage it cites the deep-stream rule pure and simple, by which the main channel, wherever it may happen to be for the time being, forms the boundary between estates on opposite banks of a river, and property in land changes hands with every alteration in its course.

Custom primary rule of decision.

414. In the absence of well established local usages† two rules of decision are laid down:—

Rules of decision in absence of custom.

- (1) Land added gradually owing to the "recess" of a river is to be considered an increment of the property of the person to whose holding or estate it has become annexed,
- (2) When a river—
  - (a) by a sudden change in its course breaks through or intersects an estate, or
  - (b) by the violence of its stream separates a considerable piece of land from one estate and joins it to another, "without destroying the identity and preventing the recognition of the land so removed" the land is to remain the property of the original owner.‡

This may be called the deep-stream rule modified to meet the case of avulsion.

415. Islands thrown up in large and navigable rivers, the beds of which do not belong to private owners, are to be at the disposal of the Government, if the channel between the island and the river bank is unfordable throughout the year. If the channel is fordable the island is to become an accession to the estate on the nearer of the two banks. In the case of small rivers, the property in whose beds and the right of fishery have been recognized as belonging to a private owner, the island is also to belong to him.§

Islands.

416. In other cases not governed by the rules the Courts are to be guided by the best evidence obtainable as to local custom, or, in default of such evidence, by general principles of equity and justice.||

Cases not governed by the rules.

417. The extent to which "clear and definite" and "immemorially established" local usages as to the effect of river action on property in land existed in the Panjab at the time of annexation seems open to doubt. Where disputes had arisen probably the victory had generally fallen to the party which could muster most clubmen, or could pay the biggest bribe, decorously veiled under the name of *naarana*, to the ruler of the day. In some cases the usages recorded in the first settlements may have had a traditional basis, in others they no doubt represented what the headmen assisted by the officials considered ought to be enforced for the future.

Probable absence of definite customs in the Panjab.

\* Section 2.

† Section 3.

‡ Section 4 (1) and (2).

§ Section 4 (3) and (4). See also paragraph 192 of the Settlement Manual.

|| Section 4 (5).

Deep-stream  
rule pure and  
simple.

418. The "deep-stream rule" is expressed by various vernacular terms, *hadd sikandri*, *kach mach*, *daryabanna*, *kishti banna*, *machhi-sim*. It probably existed in its most rigid form in some parts of the province before 1845. Even where no such usage was of great antiquity, it would naturally spring up whenever the opposite banks of a river came to be held by rival chiefs each eager to support the claims of his own subjects. It was recorded as the prevailing custom on the Bias, where it forms the dividing line between the Gurdaspur and Hoshiarpur districts.

Deep-stream  
rule modified  
to meet case  
of avulsion.

419. As a rule regulating the ownership of land it is so harsh in its working that it was universally condemned by British Officers. It may be partly on this account that in the vast majority of estates elsewhere in the Panjab, which are recorded as following the deep-stream rule, it is declared to be subject to the qualification that the transfer of land in an identifiable state by avulsion from one bank of a river to another involves no change of ownership.

Rule of fixed  
boundaries.

420. In some cases, for example, on the upper Ravi in the Gurdaspur and Lahore Districts and on part of the Jehlam in the Jehlam district, the rule of fixed boundaries, known as *war par*, prevails.\* If it is really ancient it can only have been carried out in a rough and ready fashion under native rule and for many years after annexation. It is the only rule worthy of a civilized administration, but for its successful working it is necessary that the channel should have been mapped, and that the *patwaris* should be sufficiently skilful to relay boundaries obliterated by river action. In most of the older settlements of districts separated by large streams surveys were not carried across their beds, and it is only in recent years that a really competent staff of *patwaris* has been formed.

Panjab River-  
ain Bound-  
aries Act No.  
1 of 1899.

421. As long ago as 1867 Mr. (now Sir James) Lyall proposed the adoption of fixed boundaries everywhere,† but the Financial Commissioner of the day regarded the proposal as impracticable because of the lack of skill in survey work among the subordinate revenue staff‡. This objection has ceased to be valid, and the first Act passed by the Panjab Legislative Council§ was one enabling Government to order the substitution of fixed for varying boundaries in estates subject to river action. It added six sections, 101 A to 101 F, to the Panjab Land Revenue Act, XVII of 1887, and made additions to Section 158 of the same Act, and to the second and third sections of Regulation XI of 1825.

Boundary  
how fixed

422. The Act requires that the "boundary line shall be fixed with due regard to the history of the estates and the interest of the persons respectively owning them or possessing rights therein, in such manner as may be just and equitable in the circumstances of each

\* See pages 1235, 1236, 1240 and 1241 of Selections from the Records of the Financial Commissioner, New Series, No. 15. This volume contains much information on riverain law in the Panjab.

† Selections from the Records of the Financial Commissioner, New Series No. 15, page 1208.

‡ Selections from the Records of the Financial Commissioner, New Series, No. 15, paragraph 16 of Memorandum by Mr. (now Sir Robert) Elgerton on page 1227.

§ Panjab Act No. 1 of 1899.

case.\* The instructions issued by the Financial Commissioner regarding the carrying out of this provision of the Act provide† that "the Collector should in the first place try to get the villages concerned to come to an amenable agreement." Failing that he "must himself fix a line . . . and in doing so should aim at putting each party in as good a position on the whole as he would have been, taking a long series of years together, if matters had been allowed to continue under the existing law or custom. Among other things he would have to bear in mind that a bird in the hand is worth two in the bush. If, for example, the river were making a dead set upon its right bank, which it was in a high degree likely would continue for some years, some allowance would have to be made for the fact that the riparian owners on the left bank would by our taking action under the Act be deprived of land which would be pretty certain to have accrued to them for some years if we had left matters alone. On the other hand, it should be borne in mind that in all probability after some years the river would begin to work back again, and whatever was reasonable should be allowed *per contra* on this account in fixing the line. The object should be to draw the line as far as possible so that neither party should feel that the other had obtained a very clear advantage by our intervention."

423. If the line adopted transfers land from one estate to another the proprietary rights in the land are also transferred. But in the case of land which is "under cultivation, or reasonably fit for cultivation, or (which) yields any produce of substantial value," it is the duty of the Collector to pass an order suspending the transfer of private rights "unless and until the land . . . ceases to be reasonably fit for cultivation or to yield any produce of substantial value." When any part of the land answers the latter description the transfer becomes complete.‡ The effect of action taken under the Act is to create a fixed boundary which will at once define the limits of estates, and ultimately in the majority of cases those of private property also.

Effect of relaying of boundary on private property.

424. The land-owners or any of the land-owners of an estate in which has been included land whose transfer *quâ* proprietary right has been suspended by order of the Collector may apply to him to cancel his order and award compensation for the loss of their rights to the existing land-owners. It is within the Collector's discretion to accept or reject such an application.§

Immediate transfer of ownership on payment of compensation

425. By an addition to Section 158 of the Land Revenue Act questions connected with proceedings for the determination of boundaries under Panjab Act No. 1 of 1899 are excluded from the jurisdiction of the Civil Courts.||

Exclusion of jurisdiction of Civil Courts.

426. The boundary in each case is laid down by the Collector. In practice the work has been done by Settlement Officers or special officers invested with the powers of a Collector and working under

Procedure.

\* Section 101 A (3).

† Panjab Government Revenue Proceedings, General—No. 29 of January 1890.

‡ Section 101 B (1).

§ Section 101 C.

|| Section 158 (XVIII a).

the orders of the Settlement Commissioner. No boundary line is deemed to have been permanently fixed till it has been approved by the Financial Commissioner.

Amendment  
of Regulation  
XI of 1825.

427. Additions made to Sections 2 and 3 of Regulation XI of 1825 make that enactment of no effect after a fixed boundary has been laid down.†

Progress of  
work.

428. Already great progress has been made in the work of relaying the boundaries of riverain estates with fluctuating limits. In a year or two the work will be complete, and a constant source of interminable disputes will have disappeared.

Jurisdiction  
boundaries.

429. In theory there is no necessary connection between the boundaries of private property and those of jurisdiction. In the case of the latter three kinds of riverain boundaries may be distinguished—

- (a) between districts in the same administration,
- (b) between two administrations,
- (c) between British Administrations and Native States.

Official opinion  
formerly  
favoured  
deep-stream  
rule pure and  
simple.

430. The recognition of the iniquity of the deep-stream rule pure and simple as applied to the ownership of land was quite compatible with the emphatic assertion that it ought to be enforced as between district and district, and between the Panjab and Native States.‡ The reason urged was that the boundary of jurisdiction must be one that could be quickly determined§ and easily recognised, conditions that were only satisfied by adopting as the line of demarcation the main channel for the time being.

The deep-  
stream  
declared to be  
the jurisdic-  
tion boundary  
along the  
Sutlej in  
1869.

431. A notification published in 1869 declared the deep-stream of the Sutlej to be the boundary between adjoining districts along its whole course.|| No similar notification has been issued as regards any of the other rivers in the Panjab. The tendency in most places probably was to apply the same rule to the determination of ownership and jurisdiction.

Assimilation  
of boundaries  
of ownership  
and jurisdic-  
tion.

432. The view that the deep-stream rule pure and simple was the only suitable one for the determination of district boundaries gained force from the difficulties and delays besetting the decision of boundary disputes between the landowners of riverain estates situated in different districts. But it overlooked the inconvenience land-owners were bound to suffer from having to pay part of their revenue in one district and part in another, and from being at the beck and call of two sets of judicial, revenue, and police officials. The Panjab Government therefore in 1889 accepted a proposal made

\* Section 101 A (2) and (4).

† Section 4 of Panjab Act No. 1 of 1899.

‡ See opinions of Messrs. Lake, Barnes, Melvil, and Cust on pages 1191, 1194, 1195, and 1200 of Selections from the records of the Financial Commissioner, New Series, No. 15. Other able officers, however, were in favour of the deep stream rule modified in case of avulsion.

§ The difficulty arising from cases of doubtful jurisdiction has been lessened by Section 16 A added by Act VII of 1888 to the Civil Procedure Code,

|| No. 344. dated 6th March 1869



by Colonel Wace to declare by notification that the boundaries of districts separated by rivers followed the boundaries of ownership in the boundary villages, the deep-stream being adopted where that was the practice followed for regulating proprietary rights, and the rule of fixed boundaries being observed where the estates on opposite banks defined their rights of ownership thereby.\* To the notifications relating to the different rivers schedules were annexed giving the names of the boundary estates on their right and left banks.† When such a notification has been published action taken under Panjab Act No. 1 of 1899 to lay down fixed boundaries for riverain estates also establishes permanent boundaries between the districts in which they are situated.

433. The boundary along the course of the Jamna between the Panjab and the United Provinces is regulated by the deep-stream rule pure and simple in Gurgaon, Delhi, and the Panipat and Karnal *tahsils* of the Karnal district.‡ But the boundary between the Thanesar *tahsil* of Karnal and the Jagadhri *tahsil* of Ambala on the right bank and the Saharanpur district on the left is fixed.§

Boundary between Panjab and United Provinces.

434. The boundary on the Ravi between the Panjab and the Jammu State has always been a fixed one. Till recently that on the Jehlam was partly fixed and partly shifting. It has now been agreed to have a wholly fixed boundary. ||

Boundary of Panjab and Jammu.

435. But elsewhere the reasons which were held to require the adoption of the deep-stream rule pure and simple for the demarcation of district boundaries applied with double force to the boundaries of the province and Native States. Assuming that the plan of fixed boundaries was impracticable, it was the only rule which made it possible to settle the boundaries in which Native States are concerned without endless trouble and interminable delays. But, on the other hand, the hardships to which land-owners were subjected by a divergence between the rules governing the limits of jurisdiction and private ownership were much increased when the land was transferred, not from one British district to another, but from the Panjab to a Native State.

Advantages and defects of deep-stream rule pure and simple.

436. At first the deep-stream rule in its extreme form prevailed. In accordance with it eight estates were transferred in 1857 from the Ferozpur district to the Kapurthala State. But Lord Canning refused to accept Sir John Lawrence's suggestion that the rule adopted in that particular case should be accepted as a general one.¶ In 1860 the Governor-General in Council, in dealing with a case which con-

Deep-stream rule in extreme form given up.

\* See pages 1343—1365 of Selections from the Records of the Financial Commissioner, New Series, No 15.

† The notifications issued up to September, 1895 will be found on pages 106—118 of Selections from the Records of the Financial Commissioner, New Series, No. 19. There are later notifications,—see, for example, Appendix H. to Mr. Diack's Settlement Report of Dara Ghazi Khan.

‡ Government of India Home Department, Proclamation No. 4, dated 6th January.

§ Government of India Notification No. 1501, dated 11th September 1884.

|| Panjab Government Political (Native States) Proceedings, No. 1—8 of December 1901.

¶ See page 1249 of Selections from the Records of the Financial Commissioner, New Series, No. 15.

cerned Bahawalpur, rejected a proposal to apply the deep-stream rule pure and simple, and declared that "it was incorrect to assume that as between Sovereigns the only safe rule of practice is that the main river should be the boundary irrespective of all other considerations. The rule is such only in cases of alluvion, and not in those of avulsion. . . . When a boundary river suddenly quits its bed and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule it." This decision was approved by Her Majesty's Secretary of State,\* and was declared to govern all cases which had occurred after the date, August 1860, at which it was given.†

Fixed boundaries adopted in cases of Kapurthala and Bahawalpur.

437. The boundaries of Native States cannot be legally affected by Panjab Act No. 1 of 1899. But since it was passed a fixed boundary has been laid down by consent between British territory and Kapurthala along the course of the Bias and Sutlej, and a similar line is being demarcated between the Panjab and Bahawalpur along the Sutlej and the Indus. On its being sanctioned a constant source of trouble will be removed. \*

Special revisions of assessment in riverain villages.

438. The action of the seven great rivers of the Panjab and of the numerous torrents which issue from the hills render the assets of the estates on their banks very unstable. It is therefore imperative that some means should exist by which the land revenue demand of such villages can be revised from time to time. It was ultimately found that in some large tracts the changes caused by the rivers were so frequent and so extreme that nothing would serve but the abandonment of a fixed assessment altogether in favour of a fluctuating one, which involved the reassessment of the whole demand harvest by harvest‡. But elsewhere it has been possible to retain the fixed demand, providing for its annual revision as regards those parts only of villages which have been lost or gained, been injured or been improved by river action. This latter system prevailed throughout the province for many years, after annexation, and it is still in force in a large part of it.

Three systems in force in 1860.

439. In 1860, when Mr. Cust consolidated the early rules on the subject,§ he noted that three systems were in vogue in different parts of the Panjab—

- (a) the plan current in the United Provinces of taking up these cases only in which the gain or loss of productive land amounted to 10 per cent. or more of the cultivated area.||
- (b) that of taking up every case of gain or loss,
- (c) the *chak* system, under which in each riverain estate the part of the area subject to river action was formed at settlement into an alluvial sub-division or *chak*, and the yearly enquiry was confined to the increase or decrease in that sub-division.

\* Despatch, No. 3, dated 16th January 1861. For the correspondence see pages 1249-1250 of the Selections from the Records of the Financial Commissioner, New Series, No. 15.

† Financial Commissioner's Book Circular No. 1 of 1874.

‡ See Chapter XXVII of the Settlement Manual.

§ Financial Commissioner's Book Circular No. XLII of 1860.

|| For an exact description of this plan see Appendix XXII to Thomason's Directions for Collectors, Edition of 1850.

440. The last system was enforced in the old Lahore and Amritsar divisions, where it was naturally suggested by the fact that in many riverain estates part of the area lies outside the influence of floods and above the bank or slope defining the limits of the river valley. Where all or nearly all the land was liable to inundation, the whole estate was classed as an alluvial *chak*. The plan, which was devised by Mr. R. H. (afterward Sir Henry) Davies, is an interesting one as foreshadowing the system of fluctuating assessments. The first intention was that the whole of the area of alluvial *chaks* should be annually remeasured and reassessed. But this was given up as being beyond the powers of the revenue staff of that day, and in actual practice there was no material difference between the second and the third of the systems mentioned by Mr. Cust.

The *Chak* system.

441. In the rules under the first Panjab Land Revenue Act, XXXIII of 1871, it was provided that of the above three systems that one should be followed in each estate which was entered in the settlement engagement\* or in the village administration paper.† The two rules dealing with reassessments due to river action may be quoted—

Rules under first Panjab Land Revenue Act, XXXIII of 1871.

18. "When reduction is claimed on account of diluvion, the whole estate or the whole alluvial sub-division is liable to reassessment on its existing assets. The proprietors will therefore not be entitled to a reduction of revenue if the assets be found to be from any cause larger than or as large as they were computed to be at time of Settlement. If they be less, a proportionate reduction will be allowed, the revenue being calculated on the existing assets in the same manner as when the Settlement originally took place."

19. "In ordinary cases, however, only the actual increment or decrement will be considered. The rates fixed at Settlement on lands which have not been affected by the river will not be enhanced, nor will culturable waste which was not assessed at Settlement be brought under assessment. But lands previously unculturable, and therefore unassessed, will be liable to assessment if by alluvial deposits they become culturable, and lands assessed in previous years below the full Settlement rate may have their assessment increased up to that rate or to any lower rate, which with reference to the capabilities of the soil may be thought applicable."

The first of these two rules was not enforced in practice.

442. The rule regarding alluvion and diluvion assessments issued under Section 59 of the present Land Revenue Act, simply provides that—

Rules under the second Panjab Land Revenue Act, XVII of 1887.

- (i) "Where land of an estate paying land revenue is injured or improved by the action of water or sand, the land revenue due on the estate under the current assessment shall be reduced or increased in conformity with the instructions issued from time to time in this behalf by the Financial Commissioner with the sanction of the Local Government."
- (ii) "And in every such case the distribution of the land revenue over the holdings of the estate shall be revised, so as to similarly reduce or increase the sum payable in respect of the holding in which the land that has been injured or improved is situated."‡

\* See paragraph 270 of the Settlement Manual.

† Rules under Act XXXIII of 1871, Chapter D. II, 14—16.

‡ Land Revenue Rule No. 217.

Supersession  
of general by  
special local  
rules.

443. The defects in the old assessment rules are pointed out in the 455th paragraph of the Settlement Manual. These defects have led to their supersession in districts settled during the last twenty years by special rules suited to the circumstances of each locality. The main features of these new rules are described in the paragraph of the Settlement Manual cited above.\* In the 33rd of the Revenue Circulars issued in 1891 the rules under the Act of 1871 were reproduced as instructions of the Financial Commissioner to be followed where no special local rule had been sanctioned. They are being superseded as fresh districts come under Settlement, and will ultimately drop entirely out of use.

Close su-  
pervision of  
alluvial  
assessments  
required.

444. The special local rules not only prescribe rates of assessment, but also explain the procedure to be followed in bringing to record the loss and gain due to river action. But, however perfect the system on paper, its working in practice must always remain a delicate matter, in which the work of the *tahsildar* and his subordinates must be closely supervised by the superior revenue staff of the district.

General in-  
structions.

445. The measurements on which these yearly revisions of assessment must be based occupy a good deal of time, and must be started in riverain circles as soon as the *patwari* has finished the *kharif* crop inspection, written up the mutations which have come to light in the course of it, and prepared the annual *bachh* papers.† Every village in which any change of assessment is required must be inspected by the Deputy Commissioner or by one of his Assistant or Extra Assistant Commissioners. Of course the bulk of this work falls to the Revenue Assistant, but, where it is heavy, part of it should be made over to some other member of the 'head-quarters' staff. The final order as to each estate must be passed by the Collector.‡

Annual  
returns.

446. An abstract statement of the changes due to alluvion and diluvion is sent to the Commissioner in the middle of April. A divisional abstract compiled from these district returns, is submitted to the Financial Commissioner. The orders passed on it are the authority for making the necessary changes in the land revenue roll.

\* See also Selections from the records of the Financial Commissioner, New Series, Nos. 4 and 19.

† Land Revenue Rule 41.

‡ Land Revenue Rule 274.



## CHAPTER XIII.

## PARTITIONS.

447. It is an essential feature of the village community, at least in its original form, that the proprietary body should possess part of their lands in common. The village site, the grazing lands over which the cattle wandered, and sometimes the wells from which the people drew their drinking water, were held in joint ownership. Often each sub-division (*taraf*, *patti*, or *pana*) of the estate had also its own common land in addition to its share in the common land or *shamilat* of the whole community. This feature of communal village property was reproduced by our revenue officers in those parts of the province in which the village system was forcibly engrafted on a tenure of a very different character. \*

Common  
land of vill-  
age commu-  
nities.

448. But besides the large joint holdings in which all the landowners in an estate or a sub-division of an estate have an interest, it constantly happens that many of the other holdings are jointly owned by several shareholders. According to native ideas land in North-Western India, at least wherever real village communities exist, belongs rather to the family than to the individual.† What may be called family holdings were very common when our first records-of-rights were framed. The tendency of our legal and revenue system has been to substitute individual for communal holdings. But holdings of the latter type are still numerous. And holdings owned by individuals are constantly reverting to the condition of joint holdings under the law of inheritance which gives to each son, or failing sons to each male collateral in the same degree of relationship, an equal share in the land of a deceased proprietor. A joint holding is also created whenever a landowner sells or mortgages with possession a share of his holding instead of particular fields included in it.

Other joint  
holdings.

449. The increase of population and of the profits derived from agriculture leads in time to large portions of the common waste of the village or *patti* being broken up by individual shareholders, with the result that in the end a demand arises for its partition. Family quarrels and the restraints and inconveniences which spring from common ownership constantly make those who are interested in other joint holdings anxious to divide the land.

Tendency to  
divide joint  
holdings.

450. The custom of *vesh* or the periodical redistribution of village or tribal lands, which is an interesting feature of primitive landowning tenures both in the East and West, is now nearly extinct in the Panjab. But the Land Revenue Act provides for its enforcement where the custom still prevails. ‡

*Vesh*.

\* See paragraph 166 of the Settlement Manual.

† See paragraph 122 (d) of the Settlement Manual and paragraph 14 of this book.

‡ See paragraph 158 of the Settlement Manual.

Private partitions.

451. Private partitions are frequently made, but there is always a risk that some shareholder will become dissatisfied and allege that the division was only one for convenience of cultivation, and was not intended to be of a permanent character. Landowners, therefore, especially when the area held in common is large and the shareholders numerous, usually apply to the revenue authorities to make the partition for them. A private partition may also be affirmed after due enquiry by an Assistant Collector of the 1st Grade on the application of any of the persons interested in it.\* Although no formal application has been lodged the *patwari* is bound to record voluntary partitions for orders in the mutation register as soon as they have been acted on. In passing orders on such cases care must be taken not to treat as partitions of proprietary right arrangements which the parties did not intend to be permanent. Shareholders may be content for years to have in their cultivating possession less than their full share of a common holding without intending to give up any part of their rights of ownership. If any of them objects to the record of the alleged partition, and the attesting officer considers the objection valid, he should refuse mutation of names, and refer the party seeking it to proceedings under Section 123 of the Land Revenue Act. But if he finds that the objection is vexatious or frivolous, and that a fair private partition has actually been carried out, he should record the objection and his proposed order disallowing it, and submit the proceedings for confirmation to the Revenue Assistant or any other Assistant Collector of the 1st Grade authorized by the Deputy Commissioner to deal with these cases.

Complete and incomplete partitions.

452. Partitions are of two kinds, complete and incomplete. Where a complete partition is made there is a total severance of rights and liabilities. In fact each divided share becomes a separate estate. In Thomason's Directions for Collectors the term *batwara* is used to signify complete partitions, though it is merely the Hindi equivalent of the Arabic *taksim*.† Complete partitions have been freely allowed in the United Provinces with the result that many villages have been split up into a number of small estates. But they have always been looked on with much disfavour in the Panjab, where they cannot be carried out without the express consent of the Financial Commissioner.‡ Incomplete partitions do not affect the joint liability of the shareholders for the revenue of the divided holding, and still less do they operate to create new estates.§ The former fact is not of much practical importance. The officer who makes the partition is required to distribute the revenue of the divided land over the new holdings which have been created.|| If in the case of a complete partition a fraudulent or erroneous distribution takes place, the Local Government may at any time within twelve years after the discovery of the mistake order a fresh distribution. For this purpose the best estimate possible must be made of the assets of each estate at the time of its formation.¶

\* Sections 123 and 126 of Act XVII of 1887. All references to sections in the notes to this Chapter are to sections of the Land Revenue Act.

† See Directions for Collectors, Edition of 1850, paragraph 168. The same term is employed for complete partition in the rules under the 1st Land Revenue Act, XXXIII of 1871.

‡ Section 110 (1).— Cf. paragraph 1 of Financial Commissioner's Book Circular XLVIII of 1860 and paragraph 1 and 2 of Chapter XIII of Rules under Act XXXIII of 1871.

§ Section 110 (1).

|| Section 120 (1).

¶ Section 120 (2).

453. The village site, unless in the very rare case of its being assessed to land revenue,\* cannot be partitioned by proceedings under the Land Revenue Act.† Even if it is assessed the Assistant Collector may refuse partition,‡ and this discretionary power may properly be held to extend to the uncultivated land round a village which is used as standing ground for cattle or occupied by enclosures for fodder and manure. Places of worship and burial grounds cannot be partitioned, unless the parties record and file an agreement assenting to their division.§ Any embankment, water-course, well, or tank, and the land by the drainage of which a tank is filled, and any grazing land, may be excluded from partition.§ In arid tracts, where the people depend on tanks for their own drinking water and for the watering of their cattle, it may be a matter of importance to keep the waste area which feeds a tank free from cultivation, though the land hunger is now so great that many of the owners may clamour to have it divided. Where pasture is scarce or likely to become so, especially where a supply of fodder crops is not assured by abundant artificial irrigation, the power of setting aside part of the village common as a grazing ground may often be usefully exercised. If any of the joint owners afterwards encroaches on the reserved land, he may be ejected from it on the application of any other co-sharer.|| In deciding whether to use the discretion given by Section 112 (2) of the Act one must think not only of the wishes and interests of the landowners, but also of the likelihood of the partition causing inconvenience to other residents of the village as, for example, the menials who have been accustomed to use the common property. When any of it is excluded from partition the Assistant Collector “may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon, and profits derived therefrom, respectively, are to be borne by, and divided among, those persons or any of them.”¶

Property which must, and property which may, be excluded from partition.

454. A discretion is also left to revenue officers as regards holdings of occupancy tenants. If tenants who have a joint right of occupancy in a holding wish to partition it, any objection that the landlord may urge must be carefully considered, and, if it is a reasonable one, partition may be absolutely disallowed.\*\* Even when such a tenancy is divided the former co-sharers do not, except with the express consent of the landlord, cease to be jointly liable for the rent of the original holding.†† Again an occupancy tenant may well be unwilling to see his holding split up among three or four landlords, to each of whom he must pay a separate rent. The law therefore provides that such a severance of a tenancy may be a sufficient reason for

Holdings of Occupancy Tenants.

\* Section 4 (1).—A civil suit can be brought to divide the *abad*, but it can only succeed as regards those parts of it which consist of “empty sites in or about the village unoccupied by any individual and not used by the community for any purpose.” The law on the subject is explained in Civil Judgment No. 117 in Panjab Record of November 1894.

† Section 112 (2) (c).

‡ Section 112 (1).

§ Section 112 (2) (a) and (b).

|| Section 150.

¶ Section 119.

\*\* Section 112 (4).

†† Section 110 (2).

disallowing a claim on the part of landowners for partition, so far as it would affect the holding of the tenant, unless the latter gives his assent to the proposals

Who may apply for partition.

455. Any joint owner and any joint tenant, who has a right of occupancy in his holding, may apply for partition if—

- (a) his share is entered in the last *jamabandi*, or
- (b) his right to a share has been established by decree of court, or
- (c) his title has been admitted in writing by all persons interested in the admission or denial thereof.†

The mere fact that a man is a landowner as defined in Section 3 (2) of the Land Revenue Act does not entitle him to apply unless he fulfills one or other of the above three conditions.‡

Conduct of partition cases.

456. Partition cases are decided by revenue officers of a class not below that of Assistant Collector of the First Grade, and usually by the Revenue Assistant. No officer who is not himself empowered to settle the case should receive an application for partition. A qualified officer to whom an application has been presented can either conduct the whole enquiry himself, or refer it for report to an Assistant Collector of the second grade, that is as a rule to a *tahsildar* or *naib tahsildar*. The latter course is generally the best to follow. But the officer before whom the case has been instituted is responsible for its proper conduct throughout, and should exercise close supervision over the proceedings of the official to whom he has referred it for investigation. An Assistant Collector, who in a disputed partition case is content to pass orders on reports received from the *tahsildar* without ever having the parties before himself, and without, if need be, inspecting the land to be divided, certainly fails in his duty.

Common defects in partition procedure.

457. No branch of revenue work used in former days to be worse done than partition cases. Scandalous delays were allowed to occur. No proper care was taken to lay down clearly the mode of partition or to define accurately the limits of the land assigned to each shareholder, or to point these out on the spot to the parties interested. Years after an elaborate partition had been made on paper it was not infrequently found that the existing facts of possession in no way agreed with the allotments shown in the file. Matters have improved of late years, but much watchfulness on the part of the Revenue Assistant and the Deputy Commissioner is required to prevent undue delays, and to secure that partitions are fairly carried out and given effect to fully and promptly. The points on which it is most essential to insist are that the cases are dealt with by the investigating officer as far as possible in or near the village where the land is situated,§ that the proposed mode of partition is clearly explained by

\* Section 115(3).

† Section 111.

‡ The circumstances under which a mortgagee in possession can claim partition of a joint holding are discussed in Revenue Judgment No. 4 of 1908.

§ See paragraph 247.



him, and that the orders passed by the Revenue Assistant are distinct and enter into sufficient detail to enable the actual division to be carried out without any opportunity arising for further dispute. In cases in which many shareholders are concerned the first hearing should invariably be in or near the village where the land is situated. A visit to the village is equally necessary after the partition papers have been prepared and objections to the partition are to be heard. All the sharers in the common land of a large village cannot be expected to attend at the *tahsil* on the same days, nor can objections against the partition be decided without seeing the plots allotted to each shareholder.

458. The failure to ascertain from the first what is the actual contention of those who oppose the partition is a fruitful cause of delays and wrong decisions. An officer who begins by carefully examining the parties on the spot is not likely to fall into this mistake. That complicated partition cases should remain pending for a considerable time is of course inevitable. The best way to check any tendency to procrastination is for the Deputy Commissioner from time to time to examine a few of the pending files in each *tahsil*.

How delay may be prevented.

459. Officers are too ready to pass orders of a general character, for example, "that division shall be made having regard to the character of the land (*ba lihaz nakis wa kamil*.)" If land described by the same name in the *jamabandi* really differs much in value, a further classification is a necessary preliminary to a first decision, and it should be made before the mode of partition is determined. On the other hand it is not always equitable to give each man his exact share of each class of land. While the holding was joint one shareholder may have brought part of it under irrigation by sinking a well or digging an irrigation channel, or may have raised its value by embanking it. He ought, as far as possible, to be allowed to retain the land whose present value is due to his enterprise. A suitable arrangement often is to allot to him the land he has improved, giving to his co-sharers a larger area of unimproved land.

Care required to make equitable division.

460. Certain special cases in which a revenue officer has a discretionary power to refuse partition have been referred to above. But in addition a general discretion to reject applications is given by Section 115 of the Act, which provides that "after examining such of the co-sharers and other persons as may be present . . . , the revenue officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal."

General discretion to refuse partition.

This discretion should not be exercised in an arbitrary way. Ordinarily the ground for refusal should be one of those already mentioned in the 454th and 455th paragraphs. But the Assistant Collector is not debarred from rejecting an application on other grounds if a sufficient case is made out by the opponents of partition.

461. The claim of widows for partition are often strongly opposed by the other co-sharers. Among agricultural tribes in the Panjab widow who has no sons inherits as a rule a life interest in her

Claims by widows.

decreased husband's land. Her right is indisputable, but it is one that is viewed with great jealousy by the ultimate heirs. Where her property consists of a share in a joint holding they are very loath to allow her separate possession from a fear, often well founded, that she will manage it badly, and probably in the end attempt to alienate it. At the same time, so long as the holding is undivided, the widow often finds it difficult to obtain her fair share of the produce. If the records of tribal custom (*riwaj'am*) prepared at settlement are examined it will generally, though not invariably, be found that the widow's right to claim partition is admitted, and it is clear that under the provisions of the Land Revenue Act she is entitled to apply for it. But, if satisfactory arrangements can be made to secure for her the due enjoyment of her life interest without partition, it should be disallowed.\*

Questions of  
title.

462. The officer to whom an application has been sent for report sometimes finds himself confronted at the outset by an objection which disputes the title of the applicant to ask for partition. For example, the respondent may deny the correctness of the record-of-rights, or he may admit its correctness, but assert that the applicant is not in possession of his share, and is therefore not entitled to claim partition at all, or is not entitled to do so till he has had a settlement of accounts with the respondent. In such cases all that the *tahsildar* can do is to record clearly what the points in issue are, and return the case to the officer who is empowered to dispose of it. After hearing the parties the latter must determine whether he will refer one or other of them to a suit in a Civil Court, or himself, as a Court decide the question of title raised.† On the one hand the Assistant Collector may find that the applicant, believing that the partition proceeding will give him an advantage over the opposite party, has asked for partition in order to evade direct resort to the Civil Court regarding a question of title which he knows to be disputed. In that case he should file the proceedings with leave to either party to apply to have them reopened, on showing that the point at issue has been decided by a competent Civil Court. But if it appears that the applicant is acting in a straightforward manner the revenue officer should invariably, unless there is some special reason to the contrary, deal with the dispute himself. Generally speaking, where landowners are concerned the question at issue will be one over which a Civil Court has jurisdiction. If it is so, the procedure of the revenue officer must exactly follow that applicable to the trial of an original suit in a Civil Court, and the decree will for purposes of appeal be treated as if it had been passed by a District Judge. If, however, the question is one over which a Revenue Court has jurisdiction, the revenue officer must proceed as a Revenue Court.‡ The neglect of these provisions by revenue officers often causes much trouble.

Appeals.

463. The law regarding appeals in partition cases is a little complicated, and forms a partial exception to the general rule that appeals from an Assistant Collector of any grade lie to the Collector.§ An

\* Revenue Judgment No. 11, Panjab Record of October 1895. Compare the remarks of Mr. T. Gordon Walker on pages 78-79 of Panjab Customary Law, Volume V, Ludhiana.

† Section 117 (1).

‡ Section 117 (2).

§ See paragraph 262.

order under Section 115. of the Land Revenue Act absolutely disallowing a partition is appealable to the Collector. But if he does not reject the application *ab initio*, the Assistant Collector must proceed to ascertain the questions in dispute, distinguishing between—

- (a) questions as to title in the property, and
- (b) questions as to the property to be divided or the mode of making the partition.\*

The procedure in cases in which a question of title has to be settled has been explained in the preceding paragraph. If the Assistant Collector has acted as a Civil Court, an appeal will lie to the Divisional Judge; if as a Revenue Court, to the Collector. But appeals from any order he may pass "as to the property to be divided or the mode of making a partition" are heard by the Commissioner.†

---

\* Section 116.

† Section 118 (1) and (2).

## CHAPTER XIV.

## ACQUISITION OF LAND FOR PUBLIC PURPOSES.

Advantages  
and disadvan-  
tages of  
acquisition by  
private agree-  
ment.

464. Land which is required for public purposes must be taken up through the Collector, if the provisions for compulsory acquisition contained in Act I of 1894 are put in force.\* But engineers or other officers of Government, who have obtained permission from the head of their own department, can endeavour to arrange for the purchase of land by private agreement, and in such cases Deputy Commissioners ought to supply them with preliminary estimates of value just as they would do in a case in which it was proposed to make use of the Act. But they must not themselves undertake private negotiations with landowners on behalf of other departments without the consent of the Financial Commissioner. The advantage of a voluntary agreement is that the addition of 15 per cent. to the market price, which the Act allows as a *solatium* for the compulsory nature of transaction,† is saved. On the other hand, under the statutory procedure there is perhaps less risk of an extravagant valuation, and compliance with the necessary formalities ensures the vesting of the land "absolutely in the Government free of all encumbrance"‡. Where there is the faintest doubt regarding the title of the person in possession, or where there is any reason to fear that the land may be encumbered to an unknown extent, private negotiation is out of the question. But with the accurate record-of-rights now maintained in the Panjab there is often no danger, at least in localities where the land tenure is of a simple nature, of latent defects of title. Where this is the case resort may be had to purchase by private agreement, if it is likely to result in any appreciable saving of time or money.

Plan and  
preliminary  
estimate of  
cost.

465. Whatever be the procedure proposed the first step to be taken is the preparation of a proper plan of the land by an officer of the department which wishes to acquire it. Ordinarily the landowners will raise no objection to his entering on their land, and doing whatever is necessary for that purpose. But if they do, a notification stating that the land is likely to be required for public purposes must be issued in the Gazette.§ When this has appeared, and the Deputy Commissioner has published it locally, any officer authorized by Government may enter on the land and survey it.|| If any damage is done to the land or the crops in the process, he must offer compensation to the landowners. If it is not accepted he must refer them to the Deputy Commissioner, whose decision is final.¶ Having made his plan, he must obtain from the Deputy Commissioner *data*

\* Section 7. All references to sections in this chapter are to sections of Act I of 1894.

† Section 23 (2).

‡ Section 16.

§ Section 4 (1).

|| Section 4 (2). The officer may measure, survey, dig so far as necessary, and mark boundaries.

¶ Section 5.



for a preliminary estimate of the cost of acquiring the land. All that the district officer is expected to give at this stage is the ordinary rate per acre which land of the description fetches in the neighbourhood, and a rough valuation of trees, buildings, *etcetera*.

466. The procedure to be followed after the preliminary estimate has been sanctioned by competent authority in cases in which purchase by private agreement is preferred to compulsory acquisition is described in Revenue Circular No. 54.

Procedure in case of purchase by private agreement.

467. If the better course appears to be to proceed under the Act, a notification is published in the Gazette stating that the land is required for a public purpose, and directing the Deputy Commissioner to take order for its acquisition.\* If the area is very large a special officer is usually invested with the necessary powers† and employed instead of the Deputy Commissioner.

Preliminary action in case of compulsory acquisition.

468. The enquiry which the Collector has to make in these cases relates to three points, each of which must be dealt with in his award. He must determine—

Nature of enquiry made by Collector.

- (a) the true area of the land of each class,
- (b) the amount of compensation due, and
- (c) the apportionment of the compensation among the persons interested.‡

469. The first step is to have the land marked out and measured through the *tahsildar*. The existence of small discrepancies between the areas and the descriptions of land as found by the *tahsildar* and as stated in the notification is no reason for staying proceedings.

Demarcation of land.

470. A general notice\* is next given to all persons interested§ in the land to appear before the Collector on a certain date, and to state the nature of their respective interests, and the amount of compensation which they claim.||

Notice to parties interested.

471. Before the time fixed for the hearing the Collector should receive from the *tahsildar* a *khasra* or field register and a statement of holdings. In these statements particulars are given as to the areas, the rent, and the revenue of the land, and the trees, crops, wells, and buildings on it and the estimated value of the last four items. The *tahsildar* also furnishes a report giving the chief data from which the market value of the land can be deduced, and his own opinion as to its proper price. The data of course include figures relating to any recent purchases of land by Government or private persons in the same village or neighbourhood. Information regarding the latter can be obtained from the mutation registers and from the books in the office of the sub-registrar, who is usually either the

*Tahsildar's* report.

\* Section 6.

† Section 8 (c). In the remainder of this chapter the word Collector means either the Collector of the district or a special officer invested with the functions of a Collector under the Act.

‡ Section 11.

§ For the definition of "persons interested" see Section 3 (b). In the rest of this chapter such persons will usually be described as right-holders.

|| Section 9.

*tahs*

*tahsildar* himself or a non-official working at the head-quarters of the *remil*. In using the prices stated in deeds of sale, it must be remembered that they are often exaggerated.\* The *tahsildar* must call for reports from *patidar*s or *kunungos* as to the value of the

d. In forming his own opinion he must take into account the matters which the Act requires the Collector to consider in fixing the amount of compensation, and must disregard those which it directs the Collector to disregard.†

Representations by departmental officer.

472. It is important that the local officer who represents the department for which the land is being acquired should have ample opportunity to make any representation he thinks fit as to its market value. The instructions in Revenue Circular No. 54 provide for this. Any representation he may make personally or by agent or in writing should receive careful consideration. But the Collector must avoid all correspondence with him on the subject of the award, and must not inform him of the compensation he proposes to assess until the award has been pronounced.

Preparation for hearing of case.

473. Before the hearing of the case the Collector ought to have studied the *tahsildar's* report and to have estimated the compensation which appears to be suitable. The *tahsildar's* data as to the prices paid for other land acquired by Government can be checked by referring to the register of lands taken up for public purposes maintained in every district office. If the last settlement of the district is at all recent, valuable information as to the market value of land of different kinds is sure to be found in the *tahsil* assessment report.

Examination of parties.

474. A little trouble taken before the rightholders appear before him will put the Collector in a position to deal promptly with their objections, and by questioning them to clear up any points which the *tahsildar's* report has left in doubt. A brief enquiry regarding any claims for compensation which they present will usually be enough to show in what respects, if any, his own preliminary estimate of compensation requires to be modified.

Award.

475. The next step is to record and announce the award. All possible care must be taken in framing it, for, as far as Government is concerned, it cannot be questioned. The record will as a rule enable the Collector to determine at once the first matter for decision, namely, the true area of the land of each class to be acquired.

Market value of land.

476. In deciding the next point, the amount of compensation due, he has in the first place to settle what the market value of the land is and to add to it 15 per cent. on account of compulsory acquisition.‡ If he finds the amount to be much in excess of the preliminary estimate referred to in paragraph 465, he should refrain from making an award and ask for further instructions.

\* See paragraph 380 of the Settlement Manual.

† See paragraphs 478—479 below.

‡ Section 23 (1), first sub-head, and (2). Fifteen per cent. is not added to the amount, if any, awarded on account of consequential damages.

477. He must also consider whether the persons interested in the land to be taken up have any claim for consequential damages, which fall chiefly under two heads—

Consequential damages.

(a) loss of standing crops or trees,

(b) damage to other land of the rightholder by the taking of the land required. †

As the owner will be relieved of the obligation to pay land revenue and cesses the demand of the harvest under these heads should be deducted from any compensation awarded for crops.

478. Under the second head difficult questions arise. If, for example, a canal is carried through the heart of a village, the fields on one side or the other are cut off from the homestead. To reach land which in a direct line is only distant a few hundred yards may involve the taking of ploughs and cattle three or four miles round. It is not always feasible to build a second *abadi* across the canal. The land may all be cultivated, or none of it may be common property. Again, if an embanked road or a railway or a canal distributary is carried through the fields attached to a well and the area which it can command is thereby diminished, the capital sunk in its construction may cease to yield any return to the landowner. It is difficult for the people who suffer to believe that a slight deviation from a straight line, which would have saved themselves much trouble, could not have been made. No wise man will do anything to foster the idea that the administration works with the unsympathetic rigour of a piece of machinery. For this reason and to avoid the expense of consequential damages Government has made Consulting Engineers and the local revenue officers responsible that in acquiring land for railways the fullest consideration is given to the convenience of the landowners, and has ordered slight alterations in the alignment to be made, where this is feasible, if annoyance to the people can be thereby obviated. ‡ Strict orders exist in the Irrigation Department forbidding the excavation of canal watercourses through land belonging to a well "until a suitable pipe, culvert, or syphon is completed, and the cultivator's watercourse is connected at both ends with the same at Government cost." § This principle applies equally to other public works, and a Deputy Commissioner is quite justified in asking the departmental officer whether a modification of the alignment, which would be convenient to the proprietors, would diminish the usefulness or seriously increase the cost of the work. It is the more desirable to avoid claims for consequential damages where possible, because it is a matter of great difficulty to calculate the compensation which is fairly due. ||

Damage to other land of rightholder.

\* Section 23 (1), second sub-head.

† Section 23 (1), third and fourth sub-heads.

‡ Government of India Circular No. IV Railway, dated 4th September 1897.

§ Punjab, Irrigation Branch, Circular No. 46 I, dated 6th January 1904.

|| If unreasonable claims are made under the head of severance, Government may direct the Collector to acquire the whole of the objector's land [Section 49 (2)].

Matters to be excluded from consideration in estimating market value.

479. In estimating market value the condition of the land as it was at the time the notification was issued declaring it to be required for a public purpose must alone be taken into account.\* The urgency of the need Government has to get the land, and the reluctance of the owner to part with it, have nothing to do with the question.† The latter, whether it is great or small, must be taken as paid for by the grant of fifteen per cent. over and above the market value. The fact that the use to which the land is to be put will increase the value of other land belonging to the rightholder is quite immaterial.‡ And so is any damage he may sustain which, if caused by a private person, would not be a ground for a civil action.§

Rise in value of land.

480. It is a curious evidence of the increase of the value of land under British administration that, while forty years ago it was considered a fair general rule to pay for land taken up for the State  $3\frac{1}{2}$  times the land revenue,|| no officer would feel any surprise at having to give forty or fifty times the assessment at the present day.

Compensation other than in money.

481. Persons who are being deprived of their land for public purposes would often prefer to take other land in exchange rather than money compensation. The Act allows an arrangement of the sort to be made with the sanction of the Local Government. But in the first instance the compensation must be assessed by the Collector in money, and no one can be compelled to take land instead of cash. Another form in which compensation may be given with the approval of the Local Government is the reduction or remission of the land revenue payable on the remainder of the rightholder's land.¶ An objection to this plan is that it introduces some complications into the revenue accounts, and it is not desirable that it should be largely adopted.

Apportionment of compensation.

482. If the rightholders agree among themselves as to the division of the compensation, their agreement must be accepted and embodied in the award. Where the rightholders are of different classes, e.g., superior owners, inferior owners, occupancy tenants, the Collector will usually have to apportion it himself. To do so is not always easy. The share of an occupancy tenant would properly be measured by the proportion between the price at which he could sell his tenant right and that at which the landowner could sell the land, if unencumbered by any subordinate title. Another way of approaching the question is to try to find out how the profits derived from the land are divided. The land revenue is supposed to be equal to half the rent paid by an ordinary tenant-at-will, but as a matter of fact it is usually much less. In considering cash rents paid by occupancy tenants in connection with the apportionment of

\* Section 24, fourth, fifth and seventh heads. In connection with the determination of market values see Panjab Record Civil Judgment No. 44 of May 1904.

† Section 24 first and second heads.

‡ Section 24, sixth head.

§ Section 24, third head.

|| Cust's Revenue Manual, page 100. Rupees 375 for each Rs. 100 of revenue were taken as equivalent to the landowner's profit for fifteen years.

¶ Section 81 (3).

\*\* Section 29.



compensation between them and their landlords, the most favourable assumptions to adopt, as far as the latter are concerned, are that the assessment is up to the theoretical standard, and that the rents are the highest allowed by law for tenants of the class concerned. If an occupancy tenant belongs to the most favoured class, whose rent is limited to the land revenue and cesses plus a *malikana* equal to one-eighth of the land revenue,\* it might be argued that the tenant should receive seven-eighths of the compensation. But if he belongs to a class which may be required to pay a *malikana* equal to three-fourths of the land revenue, his share of the compensation, as measured by the rent he pays, would be one-fourth. It will probably be found that calculations based on the rents paid by occupancy tenants, at least in cases where the *malikana* is low, would give the landlord less than village opinion generally would hold to be his due. Entries as to the division of compensation between landowners and occupancy tenants are sometimes to be found in village administration papers. Where the allotment there stated is not palpably unjust, it is well to adopt it without further question. But it is clear that, where all the administration papers of the district contain an identical entry without any discrimination between different classes of occupancy tenants, it cannot be accepted without further enquiry.

483. Rightholders who object to the award of the Collector as regards any of the matters which it determines may require him to refer their objections for decision to the Divisional Judge.† As soon as the award is announced the Collector should proceed to pay the compensation to all who are prepared to accept it, either willingly or under protest.‡ A rightholder who receives the money without protest cannot afterwards demand a reference to the Civil Court.§ A list must therefore be made of those who refuse to accept it or accept it under protest. Immediate notice of the award must also be given to all the rightholders who have not appeared before the Collector, so that no delay may occur in making any references to the Civil Court which their objections may render necessary.||

References  
to the Civil  
Court.

484. As soon as the award has been made the Collector should ordinarily take possession of the land, "which shall thereupon vest absolutely in the Government free from all encumbrances.¶ He need not delay doing so merely because some of the rightholders refuse to accept his award. But if the amount of the claims to compensation put in much exceed the sum awarded, possession should not be taken without first referring to the authority sanctioning the work until the period within which applications for a reference to the court has elapsed without any application being lodged.\*\*

Taking of  
possession.

\* See paragraph 218 of the Settlement Manual.

† Section 8 (d) and Panjab Government Notification No. 1791, dated 26th February 1883, Section 18.

‡ Section 31 (1).

§ Section 31 (2).

|| Section 12 (2). For the period within which applications for a reference to the court must be lodged, see proviso to Section 18 (2).

¶ Section 16.

\*\* Government of India letter No. 503 C. W. B. dated 19th September 1898.

Once possession has been taken Government is bound to complete the acquisition of the land, whatever it may cost to do so. The fact that compensation has been paid does not entitle the departmental officer to enter upon the land; he must receive possession of it from the Collector.

Immediate  
possession in  
urgent cases.

485. The 17th section of the Act makes it lawful for the Collector in cases of urgency to take over land without the assent of the owners and without waiting for the completion of the legal formalities. But before doing so he must tender to the rightholders compensation for standing crops and trees and for any damage suffered by them on account of sudden dispossession. Legal requirements may also of course be waived by agreement with the proprietors. But the Collector must satisfy himself that the agreement is really a voluntary one, and that the getting of immediate possession is a matter of great importance.\* For when land is taken up in this way, it is difficult afterwards to assess compensation for standing crops and trees, and it is hardly possible to refuse to complete the acquisition, even though it becomes evident that Government runs a risk of having to pay an extravagant sum as compensation.

Representa-  
tion of Gov-  
ernment  
before Civil  
Court

486. When he makes a reference to the Divisional Judge the Collector must inform the departmental officer that he has done so and must supply him with a copy of the rightholder's application stating the grounds of his objection to the award. The proceedings before the Civil Court are of a judicial character.† Facts must be proved in a legal manner, and all evidence, whether oral or documentary, on which the award is based, must be produced. Unless the objection merely relates to the apportionment of the compensation, its amount not being in dispute, the Divisional Judge gives the Collector notice of the date of hearing, and the Collector must arrange for Government being properly represented in court either by one of his own subordinates or by the departmental officer.‡ The latter must in any case receive a copy of the notice served on the Collector, so that he may have an opportunity of being present at the hearing of the case.

Appeal.

487. An appeal lies to the Chief Court from decisions in land acquisition cases passed by a Divisional Judge.§

Reduction of  
revenue.

488. The reduction of the land-revenue assessment consequent on the taking up of land has effect from the harvest succeeding the last one in which the owners have been able to garner their crops.

Compensa-  
tion to  
assignees.

489. If the revenue is assigned the capitalized value of the demand may be paid to the *jagirdar* or *m'afidar*. But the loss of the position of assignee or even the diminution of the income derived from an assignment is so unpalatable that, where possible, the necessary reduction should be made from *khalsa* revenue. It is usually

\* Detailed instructions on this subject will be found in Revenue Circular No. 54

† Section 53.

‡ See in this connection the 82nd of the rules about Government litigation in Appendix A to Revenue Circular 45.

§ Section 54.

feasible to arrange for this being done where only part of the revenue of an estate is assigned. In other cases where the loss of revenue is very small, the *jagirdar* or *m'afidar* must be content to accept a lump sum for compensation. But when it exceeds Rs. 100 or amounts to one-fifth of the total land revenue enjoyed by the assignee, the Deputy Commissioner may make a proposal for the grant of a pension or of a new assignment. Such a proposal should not be made as a matter of course, but only in favour of a deserving assignee, who feels keenly the loss of his *jagir* income.\*

490. The Local Government may direct the Collector to take up land for any period not exceeding three years. In cases of temporary occupation of this kind no notification is published in the Gazette. The Collector calls the rightholders together and endeavours to come to an agreement with them as to the rent to be paid. In fixing the amount it must be remembered that the landowners will remain liable for the land revenue. If the Collector cannot come to an agreement with the rightholders, he must refer the matter in dispute for the decision of the Divisional Judge.†

Temporary occupation of land.

491. At the expiry of the term of occupation the Collector must offer compensation for any damage done to the land not provided for by the agreement, and the rightholders may require Government to buy it outright, if it has become permanently unfit for the purpose for which it was used immediately before it ceased to be in their possession. ‡ Any dispute as to the condition of the land must be referred to the Divisional Judge. §

Compensation for damage done during occupation.

402. What has been said above about the acquisition of land for the State applies equally to the taking up of land for a Company under the provisions of Part VII of the Act.||

Taking up of land for Companies.

493. Where land in the permanent occupation of any department is no longer required it should be handed over to the Deputy Commissioner of the district, who becomes responsible for the disposing of it under the orders of the Financial Commissioner. There is no legal bar to its being put up to auction. But as a matter of grace Government is usually willing to restore agricultural and pastoral land to the persons from whom it acquired it or to their heirs on their refunding the amount paid as compensation less the 15 per cent. granted for compulsory acquisition.¶ The price may be lowered, if necessary, on account of deterioration, or enhanced in the rare case of land having been improved by the use to which Government has put it. The improvement must be one affecting the quality of the land. The fact that land, which was unirrigated at the

Disposal of land no longer required.

\* Panjab Government No. 549, dated 4th September 1890. For the scale of compensation in case of *jagir* revenue see paragraph 34 of Revenue Circular 54.

† Section 35.

‡ Section 36.

§ Section 37.

|| Sections 38—44.

¶ Government of India Resolution No. 13—14—130, dated 30th October 1896. If the rights of occupancy tenants were acquired as well as those of landowners, the proprietary rights restored should be made subject to the occupancy rights under the provisions of the Crown Grants Act, XV of 1895.

time of acquisition, can, when relinquished, be watered by a canal, is not an improvement of this sort. Considering how great the rise in the market value of land has been, the terms stated above are very liberal. It is not necessary to adopt them in their entirety where the persons concerned are remote descendants or relations of the original holders. And, where the circumstances of the case are at all out of the common, when, for example, no price or merely a nominal price was paid to the owners in the first instance, or when the rise of the value of land, in the neighbourhood has been exceptionally large, the Financial Commissioner should be consulted before any terms are offered to the heirs of the persons from whom that land was acquired.

Case in which preference should be given to owners of adjoining fields.

494. In the case of plots which from their size or shape are practically of no value to any one but the owners of the adjoining fields, the option of purchasing at the market value should be given to them. The mere fact that an outsider is prepared to outbid them should not deter the Deputy Commissioner from accepting any fair offer which they may make.

Action when the heirs and neighbouring proprietors do not wish to purchase.

495. If the heirs of the original owners cannot be traced, or if they or the proprietors with a claim on the ground of vicinage decline to accept the terms offered to them by the Deputy Commissioner, the land may be put up to auction or dealt with as may appear advisable under the orders of the Financial Commissioner.

Report to Financial Commissioner.

496. In negotiations for the disposal of land no longer required the Deputy Commissioner must make it plain that any terms he proposes are not binding on Government till they have been sanctioned by the Financial Commissioner. In ordinary cases it is enough for him to note his proposals in the last column of the statement proposing the addition to the land-revenue roll which will follow on the reversion of the land to private ownership. But if the area relinquished is large, or if any doubtful questions arise in connection with its disposal, it is better to deal with the case in a separate report.



## Book IV.—Collection of Land Revenue and Local Rate.

### CHAPTER XV.

#### COLLECTION OF LAND REVENUE.

497. There is nothing on which the happiness of subjects and the stability of Governments more depends than the way in which revenue is assessed and collected. The old monarchy in France, which at one time had conferred great practical benefits on that country, was gradually undermined by its failure to limit the amount of its taxation, to distribute it fairly over the different classes of the community, and to collect it without oppression, and at last fell with a crash which shook the whole of Europe. The measures adopted by the British Government in India to secure an equitable assessment of the land revenue have been described elsewhere. We are here only concerned with the regulations for its collection, a matter of equal importance, and sometimes of even greater difficulty.

Taxation the touchstone of good or bad administration.

498. The income of Indian Governments whether native or foreign has always been mainly derived from the share of the produce of the soil which the State claims as its own.\* It is one of the chief duties of the head of a district to collect the land revenue and the local rate.† The second charge is levied as a percentage on the land revenue, and for practical purposes is hardly distinguishable from it. The Deputy Commissioner is also the Collector of the various taxes imposed by the Government, but with these this hand-book is not concerned. It will be necessary, however, to notice briefly his duties in connection with the realization of the rates levied in many districts for the use of canal water.

Deputy Commissioner responsible for collection of land revenue and local rate.

499. In some States under native rule a feeling of kinship between the chief and his people or a sense of weakness on the part of the former produced a certain measure of moderation in land revenue collection. But if the ruler and his subjects were of different races or religions extreme severity was often shown, and a governor who remitted his quota regularly to the King's treasury had little to fear from inquiries as to his methods of administration. Jafir Khan, whom the Emperor Aurangzeb made *Subadar* and *Diwan* of Bengal and Oriassa, is praised by his Muhammadan biographer for his "rigid and impartial justice," and his whole administration

Native methods of collection.

\* See Chapter I of the Settlement Manual.

† For the local rate see paragraph 91 of the Settlement Manual. No part of the village officer's cess (paragraph 281) is now paid into the treasury. For the *malba* and village cesses see paragraphs 92–97 of the Settlement Manual. The Deputy Commissioner has no direct concern with their collection.

is stated to have "tended to the benefit of mankind and the glory of the Creator." Yet the same author tells us that this admirable ruler, besides having defaulters bastinadoed and in winter stripped naked and sprinkled with water, forcibly converted them with their wives and children to the Muhammadan faith. But the husband of Jafir Khan's grand-daughter, Saiyyid Raza Khan, who was *Naib Diwan* of Bengal out-heroded Herod. The infernal pit, mockingly called "*Baikunth*" or Paradise, into which he thrust defaulting Hindu *zamindars* and officials, is graphically described in a Persian narrative translated by Mr. Gladwin and quoted in the second volume of Harington's "*Elementary Analysis of the (Bengal) Laws and Regulations.*"\* Of course everything depended on the character of the governor for the time being, and all were not of above type. Governors had a direct interest in extending cultivation, and men like Diwan Sawan Mal, the great revenue farmer and governor of the South-Western Panjab under Maharaja Ranjit Singh, who combined self-interest with intelligence and resolution, could become rich themselves by promoting the development of the territories under their control. But while the *Diwan* was fostering agriculture in one part of Gujranwala, Raja Gulab Singh of Jammu was ruining the people in another, and the beneficent governorship of Misr Rup Lal in the Jalandhar Doab was preceded and followed by the short-sighted oppression of the Shekhs.

Grave defects  
of early  
British  
methods of  
collection.

500. Native rulers were more prone to screw the revenue out of landholders by personal indignities or bodily torture than by the threat of depriving them of their lands.† If the cultivator was driven away there was no one to take his place, for the possession of land was not coveted by those who did not depend on it for their livelihood or were not attached to it by the ties of long possession. When the East India Company became responsible for the Government of Bengal and of the Upper Provinces the regulations issued regarding the collection of land revenue were dominated by the feeling that it was at once more logical and more humane to recover arrears by proceeding against the land than against the person of the landholder. The power given to the Collector of confining defaulters was carefully guarded and limited, but public sales of land were extremely common and the law in its actual working involved the greatest hardship to the landowners of the country.‡ These evils had been laid bare and remedied before the annexation of the Panjab, and the collection of revenue in this province, while often too rigid and mechanical, has rarely been open to more serious reproach.

---

\* Pages 352—354. Harington was President of the Council of the College of Fort William and an officer of large administrative experience. The second volume of his book was published in 1815.

† See fifth Report of Select Committee of the House of Commons, dated 28th July 1812, quoted on page 351 of the second volume of Harington's Analysis.

‡ It was not so much the fault of the law, which did not differ widely from that at present in force, as of the officers who administered it. It is hard for us with more than a century of experience behind us to realize the difficulties of Officers who were dealing with novel conditions.

501. The land revenue of a holding or of an estate being a cash commutation of the right of Government to a share of the crops grown upon it is properly declared to be "the first charge upon the rents, profits, and produce thereof."\* It is the Deputy Commissioner's business to safeguard this right. Without his consent no court can attach the "rents, profits, or produce" until the current land revenue and any arrears that may be due have been paid.† Orders issued by civil and criminal courts for the attachment of land, or any interest in land, or the produce of land, must be addressed to, and executed by, the revenue department.‡

Revenue a first charge on produce of land.

502. It seemed at one time natural to enforce the Government lien on the produce by making the instalments of land revenue fall due before the crops, from which they were to be liquidated, were cut. This plan in practice led to great abuses and was given up eight or nine years before the annexation of the Panjab. Instalments are now arranged so as to become payable shortly after the garnering of the crops. The number, dates, and amounts of the instalments are fixed at settlement with the approval of the Financial Commissioner, and are often identical for all the estates in a *tahsil*. If experience shows clearly that the arrangements originally made are unsuitable for any estate or group of estates, the Deputy Commissioner should not hesitate to ask to have them changed. §

Instalments.

503. The joint and several responsibility of all the landowners in an estate for the payment of the whole land revenue assessed upon it is emphatically asserted in the 61st section of the Land Revenue Act. Each shareholder is therefore liable not only for the demand due on his own holding, but also for any arrear that may arise in respect of another holding. If he happened to be the only solvent landholder in the estate, he could raise no legal objection to an order that he should himself pay the whole balance. In such a case the holdings of the defaulters would of course, if he so wished, be transferred to him for a term. || When an estate consists of two or more recognized sub-divisions (*pattis* or *tarafs*) the joint and several responsibility for an arrear arising in any particular sub-division should in the first instance be enforced against the shareholders in the sub-division, and not against the whole community.

Landowners jointly and severally responsible.

504. The communal bond never in fact existed in some parts of the Panjab. Where it is a mere fiction of our revenue system, and estates are only artificial groups of independent holdings, the enforcement of common responsibility, though legal, would not be just. Everywhere the tendency of our rule has been to promote individualism, and the intrusion of strangers into village communities has in many places weakened the feeling of corporate life and duties. A revenue officer in his dealings with estates should do what he

Extent to which joint responsibility should be enforced.

\* Act XVII of 1887, Section 62 (1). The sections quoted in this chapter are sections of Act XVII of 1887.

† Section 62 (2).

‡ Section 141.

§ Section 65 (1). See also paragraphs 554-558 of Settlement Manual.

|| See paragraph 523.

can to check this process of disintegration. As far as possible village communities should be left to themselves. As Thomason remarked:—

“So long as the Government revenue is punctually paid, it is most important that the Collector, as a fiscal officer, should abstain from all interference . . . The great desire and object of the Government is to teach the people self-government . . . They should be instructed and encouraged thus to conduct their affairs, and by punctual payment of the Government demand to bar all direct interference on the part of the fiscal officers of the Government.”\* Where default occurs prompt action is of course required. If the arrears cannot be recovered from the defaulters themselves the measures adopted for their realization should be so framed as to assert the principle of common responsibility.

Headman not to be made scapegoat of the community.

505. It is the duty of the village headman to collect the revenue from the landowners and pay it into the *tahsil* treasury. But if he can show that he has done his best and failed, his responsibility for an arrear is no greater than that of the other members of the brotherhood, and he should not be made the scapegoat.

Shareholders must not be allowed to pay direct.

506. A shareholder who is on bad terms with his headman sometimes tries to pay in revenue direct either in cash or by money-order. Such payments should invariably be refused. The grant of revenue money-orders to any one but a *lambardar* is against the rules of the Postal Department.

The village *khataunis*.

507. To aid the *tahsildar* in keeping an eye on the collections for each estate a separate village account of demand and receipts known as the *khatauni* is kept up by the *tahsil* revenue accountant or *wasil-baki navis*.† One large sheet is allotted to each village, and these sheets are bound together in one or more volumes. At the top a statement of the demand arranged under various heads is entered. As it is important that the *tahsildar* should be able to see at a glance the whole of what he has to realize from each estate the demand is shown not only on account of land revenue, fixed and fluctuating, but also on account of different items of miscellaneous land revenue, such as *tirni* and *talabana*, local rates, canal water-rates, and so on. In fact everything should be put down which the estate pays into the *tahsil* treasury through its headmen. The rest of the sheet is occupied by the collection statement. Under each item of demand is shown each receipt under that head with the date of payment. At the end of the year each column should be totalled, and any unpaid balances should be noted. Such balances should be carefully shown under the proper heads in the *khataunis* of the succeeding year.

Duties of *patwari* in connection with land revenue collection.

508. It is the duty of the *patwari* after the *kharif* harvest inspection is over to give the headman a list, known as the *fard dhal bachh*, showing the demand due under different heads (land revenue,

\* Thomason's *Directions for Collectors*, edition of 1850, paragraph 34.

† See paragraph 589.



local rate, etc.) from the owner of each holding.\* This list is brought up to date and corrected, if necessary, after the *rabi girdawari*. A fresh list will always be required where the instalments for the two harvests are not equal, or where the demand is a fluctuating one assessed by the application of acreage rates to the harvested area. The *patwari* is bound to help the headmen by explaining the accounts, and by writing, if required, the receipts to be given to the share-holders.† But he is forbidden to have anything to do with the actual collection or handling of the money. He should give each headman for presentation at the *tahsil* a memorandum (*'arz irsal*) showing under the proper heads the amounts to be paid in.

509. Arrived at the *tahsil* the headman shows the *'arz irsal* to the revenue accountant (*wasil-baki navis*). Having ascertained by reference to the village *khatauni*, if necessary, the proper distribution of the amount tendered, ‡ the revenue accountant enters it under the proper heads in the foil and counterfoil of the receipt register (*dakhila bahi*). On receiving the money the *tahvildar* or *tahsil* treasurer signs both copies of the *dakhila*, with a note of any deductions for short weight or false coin that may be required. The signature of the *tahsildar* or *naib tahsildar* must next be obtained on the foil and counterfoil. The *dakhila* is then handed to the *siyaha navis* whose business it is to write up the daily cash account (*siyaha*) of the *tahsil*. The payments made should be entered under their proper heads by the *siyaha navis* in the cash account or *siyaha* and the *wasil-baki-navis* in the *khatauni*. The *tahsildar's* signature on the *dakhila* in the authority for the entries in the *siyaha*, and they must not be made till it has been obtained. The *siyaha-navis* should sign both foil and counterfoil of the *dakhila*, after which the counterfoil should be removed from the register and given to the headman. §

Payment at  
outlying  
tahsils.

510. *Tahsils* at head-quarters have no separate treasuries, and therefore no *tahvildar* and *siyaha-navis*. A headman bringing money to such a *tahsil* presents his *'arz irsal* to the *wasil-baki navis*, who prepares receipts (*dakhilas*) in triplicate, signing them himself and obtaining the signature of the *tahsildar* or *naib tahsildar*. The headman is sent to the district office treasury with the money and the three copies of the receipt. He presents them in the first instance to the treasury accountant, who, if there be no objection to the receipt of the money, initials the three copies. They are next presented by the headman to the district treasurer, who receives the money, enters the amount in his cash-book, and signs in full the three copies of the *dakhila* after entering in each any deduction for short weight or bad coin which may be necessary. The three copies are then brought back to the treasury accountant, who enters the amount

Payments at  
head-quar-  
ter's tahsils.

\* Land Revenue Rule 53. For entries of the demand by the *patwari* in the owners' *parcha* books see Land Revenue Rules 54, 56.

† Receipt forms are included in the *parcha* books which every landowner is entitled to have—Land Revenue Rule 54.

‡ Where only part of the total demand for the harvest on account of land revenue and cesses is paid in at one time it is the rule to clear the account for cases first crediting the balance to land revenue. Subsequent payments can then be credited wholly to land revenue.

§ Accountant-General Letter No. 56, dated 28th March 1902, see also Financial Commissioner's Circular Letter No. 3856, dated 21st July 1902.

in his cash-book and completes his signature on the three copies. One copy he returns as a receipt to the headman, first obtaining in the case of sums of Rs. 500 and upwards the signature of the treasury officer, the second he forwards to the *tahsildar* when the accounts of the day are closed, the third he keeps for record in the treasury. The first, third, and last column of the *dakhila* register should be filled up by the *wasil-laki-navis* when the *dakhila* is issued, and the remaining columns when it is received back. Enquiry should be made about any *dakhila* not returned by the treasury on the same or the following day. Where the Government treasury is managed by the Bank of Bengal, a similar course is followed, the triplicate *dakhila* being presented with the money at the Bank instead of at the district treasury.\* No daily cash account or *siyaha* is sent it by head-quarters *tahsils*, but a daily abstract (*goshwara*) of the entries in the *dakhila* book under each head of account is sent to the district treasury where it should be carefully examined to see that all items have been duly credited in the treasury accounts. No copy of the *goshwara* is kept at the *tahsil*.

Revenue money-orders, and payment without pre-audit,

511. The headmen, when they bring in the revenue, are often expected or compelled to give small douceurs to members of the *tahsil* establishment, especially to the revenue accountant. *Tahsildars* should be made to understand that their own credit is involved in stopping this practice. Deputy Commissioners, who wish to do so, are allowed the option of introducing the system of payment of land revenue into the treasury without pre-audit by the *wasil-baki-navis*. According to this system it is essential in the first place that a correct *kist-bandi* should be supplied to every *patwari* for each of his villages. With the assistance of the *kistbandi patwari* may be expected to give correct *'arzirsals* to each headman paying in an instalment of land revenue. The persons tendering payment will then take the *'arzirsal* with the money to be paid direct to the treasurer, who will at once receive the money and sign a receipt on the back of the *arz-irsa*. This will then be taken by the headman or person paying the money to the *siyaha-navis* and *wasil-baki-navis*, by whom *dakhilas* will be prepared in the usual way. The headmen can also protect themselves by sending the money to the *tahsil* by revenue money-orders, but in some cases they are probably afraid to offend the *tahsil* staff by adopting this expedient. It is best to leave them to choose whichever mode of payment they prefer. It is a pity to discourage them from coming personally to the *tahsil*. There are some advantages in their doing so, and no hardship is involved if they are not subjected to needless delays or illegal exactions.

Payments to be credited to demand of harvest, not in liquidation of arrears,

512. After the land revenue of any harvest has become due all payments must be credited against the demand on account of that harvest. It is only after that has been fully satisfied that money received can be employed for the reduction of balances outstanding from previous harvests.

\* Accountant-General's Letter No. 56, dated 28th March 1902.  
Financial Commissioner's Circular Letter No. 8856, dated 21st July 1902.

513. It was formerly the rule to allow large assignees of land revenue to take it direct from the headmen. This privilege was often abused and has been withdrawn in many cases. It can only be continued if the arrangements for receiving the money are satisfactory to the Deputy Commissioner.\* It should cease where the *jagirdar* makes it an instrument for illegal exactions or for putting pressure on landowners to transfer their lands to himself. But where he acts fairly and the landowners have no valid ground of complaint it is harsh to deprive the assignee of a privilege which he greatly values. The collection must be made from the headmen and not direct from the landowners. A *jagirdar* cannot of course employ any of the coercive processes to be presently described. If the revenue is not paid to him at the proper time he can ask the Deputy Commissioner to collect it for him, † or with the assent of the Deputy Commissioner he can sue the defaulter in a revenue court ‡. Where the revenue is realized by the Deputy Commissioner for the *jagirdar* a charge of 2 per cent., known as *hkak-ul-tahsils*, is made to cover the cost of collection. §

Direct payment to assignees.

514. Failure to pay the land revenue by due date may be either justifiable or unjustifiable. Where it is justifiable the demand should be either suspended or remitted. The circumstances under which relief should be given in one or other of these ways are described in the next chapter. The rest of the present chapter deals with the action to be taken by the Deputy Commissioner to recover arrears which have not been, and in his opinion ought not to be, suspended or remitted.

Failure to pay either justifiable or unjustifiable. Action appropriate to each case.

515. It should be an invariable rule either to collect the demand punctually or to suspend it regularly. If each instalment is not taken when it falls due, the provision of the law which makes the land revenue a first charge on the produce of the harvest becomes a dead-letter. The money-lender takes from his debtors the grain which should have been sold to pay the State its share, and the landowners in the end have to contract fresh debts when they are at last pressed for payment. Every *tahsildar* must understand this, but many of them act as if mere delay in enforcing a claim which must ultimately be met were a boon to the defaulter. The means which the Deputy Commissioner possesses of detecting unpunctuality are described in the XVIIth chapter.||

Delay in enforcing payment harmful to the land owners.

516. "Defaulter" is defined in the Land Revenue Act as meaning "a person liable for an arrear of land revenue," and as including "a person who is responsible as surety for the payment of the arrear." ¶ The definition has a wider scope than might at first sight appear. Reading it with Section 61 of the Act it is clear that

Defaulter Meaning of.

\* See Section 64 of Act XVII of 1887 and Land Revenue Rules 223 (1) (c) and (ii) and 227.

† Land Revenue Rule 226 (ii).

‡ Section 77 (3) (p) of Act XVI of 1887 and Section 64 (3) of Act XVII of 1887.

§ Land Revenue Rule 228 (ii).

|| See paragraph 502.

¶ Section 8 (8).

all the landowners in an estate are defaulters if an arrear accrues in respect of any particular holding. In practice the milder coercive processes, which are all that are usually needed, are directed either against the owner of the holding in respect of which the default arises or against his headman.

Application  
of headman  
for process  
against  
defaulter.

517. A headman, who has shown proper diligence, can obviate the risk of proceedings being taken against himself by applying to the *tahsildar* or Deputy Commissioner for assistance.\* Applications will not be entertained if the arrear has been outstanding for over six months unless the *lambardar* satisfies the revenue officer that the delay in realization has not been due to his own neglect. If the application is entertained, a date is fixed, a writ of demand is served on the defaulter, and he is summoned to appear.† If the existence of the arrear is proved, an order is recorded stating the amount and the person from whom it is due, and the duty of recovery is transferred from the headman to the *tahsildar*.

Personal  
action by  
*tahsildar*.

518. Such is the prescribed procedure. But when it is clear that a headman without any apparent reason finds difficulty in inducing his co-sharers to pay their quota, it is a good plan for the *tahsildar* or his *naib* to go to the village and find out what is the real cause. If he sees that the refusal is due to private enmity or jealousy he should uphold the *lambardar's* authority by convincing the defaulters that they themselves are the persons who will suffer by delay. If they assert that they suspect the headman of misappropriating the money he collects and are afraid to entrust him with it, he should realize the revenue at once through the *lambardar* and tell him to take it the *tahsil*.

Misappropriation  
by headman.

519. Misappropriation by a needy headman is unfortunately no rare occurrence. Having money in his hands he finds it convenient to pacify his private creditors at the cost of plunging deeper into debt a month or two later when the *tahsildar* insists on payment of the Government demand. Whenever misappropriation is proved the headman should be dismissed and the Deputy Commissioner should consider whether it is expedient also to prosecute him criminally.

Legal pro-  
cesses for  
recovery of  
arrears.

520. The legal processes for the recovery of arrears are—

- (a) by service of a writ of demand on the defaulter [Sections 67 (a) and 68 and Land Revenue Rules 238—241];
- (b) by arrest and detention of the defaulter [Section 67 (b) and Section 69 and Land Revenue Rules 246—248];
- (c) by distress and sale of his moveable property and uncut or ungathered crops [Section 67 (c) and Section 70];

---

\* Section 97 and Land Revenue Rule 243.

† Land Revenue Rule 244.



- (d) by transfer of the holding in respect of which the arrear is due [Section 67 (d) and Section 71];
- (e) by attachment of the estate or holding in respect of which the arrear is due [Sections 67 (e) and 72 and Land Revenue Rule 249];
- (f) by annulment of the assessment of that estate or holding [Section 67 (f) and Sections 73-74 and Land Revenue Rules 250—254];
- (g) by sale of that estate or holding [Section 67 (g) and Sections 75-76, 79—96 and Land Revenue Rule 255];
- (h) by proceeding against other immoveable property of the defaulter [Section 67 (h) and 77].

For details of the procedure to be followed in connection with each of these coercive processes reference must be made to the sections of the Land Revenue Act and the rules above noted. A person against whom proceedings are taken for the recovery of an arrear may, if he denies his liability and pays under a written protest, sue in the civil court for a refund.\*

521. A writ of demand is known as a "*dastak*." It is little more than a reminder. It shows the amount of the arrear, and requires the person addressed to pay it together with a service fee (*talabana*) of twelve annas into the *tahsil* by a certain date. Writs are served by a special staff temporarily engaged for the purpose and the issue of many *dastaks* may mean more to a village than an addition of *talabana* to the land revenue demand. A writ may be addressed to the actual defaulter, but it is usually directed to his headman, unless the latter has made an application under Section 97 of the Land Revenue Act.† It can be issued on any day after the date of the instalment, but it is proper to allow a few days' grace, and this may reasonably be extended to a fortnight where, though there are two instalments, it is the custom of the estate to pay the whole demand at one time. There is no legal objection to the sending out of repeated *dastaks*, but only a weak *tahsildar* would think of doing so. A *tahsildar* can issue writs of his own authority. If he has his *tahsil* well in hand he ought not to find many necessary. Any tendency to use too freely this or the next form of coercion, which are the only two which a *tahsildar* can put in force himself, can easily be checked by the Collector, as the *tahsildar* sends in monthly statements of writs and warrants issued. •

Writ of demand.

522. The actual defaulter or the headman who represents him may be arrested and detained at the *tahsil* or district office for ten days.‡ He may be released on bail being given that he will not absent himself for certain hours daily during that period.§ If the arrear is not paid by the end of the term the Deputy Commissioner

Detention of defaulter.

\* Section 78.

† See paragraph 517.

‡ Section 69 (2).

§ Land Revenue Rule 246.