

in years of drought the rapid drainage does away with much of the benefit of a somewhat larger rainfall.

Arrears easily recovered in insecure unirrigated tracts.

556. It is fortunate that those unirrigated tracts in which suspensions on a large scale are most often required are precisely those in which the recovery of arrears is most easy. There suspension need rarely be followed by remission, unless a succession of bad seasons entails very heavy losses of cattle and deprives the people of the means of rapidly replacing them. In other words remissions on a large scale need only be contemplated when scarcity has deepened into famine. The revenue rates have been pitched low, because the periodical recurrence of short harvests was foreseen, the holdings are as a rule large, and in good seasons the surplus after meeting all expenditure is very great.

Well lands.

557. The case of well lands is widely different. The effect of drought on well irrigated estates should be closely watched, just because the signs of the disease are likely for a considerable time to elude the notice of a careless observer. Well irrigation and small holdings generally go together, and the surplus remaining with the husbandman after paying the revenue and providing for the support of his family is always small. The price and the keep of the bullocks are heavy items of expenditure. In the drier parts of the province the wells by themselves cannot mature any large area without the help of river floods in autumn or of waterings from inundation canals, both precarious sources of moisture. On such wells moreover a considerable part of the area has to be given up to provide fodder (green wheat and turnips) for the cattle, and in dry years this area inevitably expands. Even in more favoured tracts during seasons of severe drought the sacrifice of valuable crops, such as sugarcane, to keep the bullocks fit for work, is a common sight. Well estates bear up at first in years of short rainfall better than unirrigated ones. But if drought is very severe, and especially if it is prolonged over several harvests, they suffer more severely and recover more slowly. Where relief has to be given in well irrigated estates consisting mainly of small holdings the Deputy Commissioner should consider whether it should not take the form of remissions. The calamity is one for the possible occurrence of which little or no allowance may have been made in assessing the village, the rates are as a rule far higher than on unirrigated soils and absorb a larger proportion of the average net assets, and the surplus even in good years is small. These conditions are just the opposite of those which prevail in those unirrigated tracts which are classed as insecure. If the relief given has taken the form of suspension much care and patience is required in the recovery of arrears, and if good seasons do not speedily return, remission may be proposed before the ordinary period of three years mentioned in paragraph 576 has elapsed.

Remissions of revenue when wells fall out of use.

558. The precariousness of the well cultivation in some of the western and south-western districts has been so clearly recognized that it has been made a condition of the land revenue settlement that the well assessment will be remitted when a well falls out of use from any cause, and reimposed when it is again brought into use. The following rules have recently been sanctioned providing for the re-

duction of revenue when a private irrigation work falls out of use during the term of settlement.

The rules do not apply :—

- (a) to any district, or part of a district, for which local rules have been sanctioned, or may hereafter be sanctioned ;
- (b) to unlined wells or *jhalars* of similar description.

#### RULES.

I. The Deputy Commissioner shall remit so much of the assessment on the land irrigated from a masonry well as is based on the profits of irrigation from the well—

- (a) when it ceases to be fit for use ;
- (b) when irrigation from it is superseded by canal irrigation, and canal advantage revenue or owner's rate has been imposed.

II. The Deputy Commissioner may grant a similar remission if the well, though still fit for use, has been out of use for four harvests, provided that no remission shall be given if the disuse of the well—

- (a) occurs in the ordinary course of husbandry, the well being intended for use merely in seasons of drought ;
- (b) is due to the introduction of canal irrigation, and canal advantage revenue or owner's rate has not been imposed.

NOTE.—The revenue based on the profits of irrigation from the well shall ordinarily be assumed to be as follows :—

- (i) Where a lump sum has been assessed on the well in addition to a non-well rate,—such lump sum.
- (ii) Where a lump sum, inclusive of a non-well rate, has been assessed,—such lump sum after deducting the equivalent of non-well rate.
- (iii) Where the distribution of the assessment has been by soil rates,—the difference between the actual assessment of the area irrigated and the amount which would have been assessed on that area, if it had not been irrigated.

III. Cases may occur which will not be sufficiently met by the remission of only so much of the assessment as is based upon the profits of irrigation from the well. Such cases should be referred through the Commissioner for the orders of the Financial Commissioner.

IV. In deciding whether to use the discretion given to him by Rule II, the Deputy Commissioner shall consider whether the disuse of the well is due to some cause beyond the control of the landowner, such as the spread of salts in the soil, the loss of tenants or cattle, and extreme difficulty in replacing them.



V. Except with the sanction of the Financial Commissioner, no remissions shall be given under these rules unless the distribution of the assessment of the estate has been made in one or other of the ways described in the note to Rule II.

VI. When a remission is granted it shall take effect from such harvest as the Deputy Commissioner may determine.

VII. If a new well is made to irrigate the land attached to a well in respect of which a remission has been granted under these rules, or if such well is repaired, the re-imposition of the assessment will ordinarily be effected in accordance with the rules for the grant of certificates of exemption contained in paragraphs 505 to 508 of the Settlement Manual as recently revised.

VIII. Where a well for which a remission has been given is again brought into use, and no certificate of exemption is granted, as for instance on the return of tenants or by reason of replenishment of cattle, the Deputy Commissioner shall re-impose the whole of that portion of the assessment which was remitted with effect from such harvest as he may determine.

If in any case the Deputy Commissioner thinks the whole should not be re-imposed, he should report the case for the orders of the Commissioner.

IX. These rules may be applied, so far as they are applicable, to the grant of remissions in the case of other irrigation works constructed at private expense, such as canals, water-courses, dams, embankments, reservoirs, and masonry jhalars.\*

Suspension  
usual relief in  
case of ordi-  
nary calami-  
ties.

559. The following instructions have been issued as to the relief to be given in the case of ordinary calamities. It will sometimes be found advisable to grant relief from the beginning in the form of remissions. If, for instance, the amount of revenue which it is decided not to collect is such that, when considered with reference to the recent history and present condition of the people, the nature of the assessment and the character of the tract, it is practically certain that it will be impossible subsequently to collect it, it should not be kept unnecessarily hanging over the heads of the revenue-payers, but should be remitted at once. So again, the special conditions of certain tracts may justify the adoption of initial remission as the rule. But in view of the fact that remissions require more careful investigation than is necessary for an order of suspension, it may be taken, as a general rule that in cases of widespread calamity, where promptitude is essential, relief should in the first instance be given in the form of suspensions.

Extent of  
crop failure  
justifying  
relief.

560. "It is impossible to lay down a fixed criterion for the determination of the exact point of crop failure which should be deemed to justify the grant of relief. It has been suggested that only those calamities which are too severe to have been contemplated by the assessing officer as included in the normal course of events should be recognized, and the principle is sound in itself but does not cover the whole case. An eight-anna failure of crops in a precarious tract

\* Panjab Government No. 1613 S., dated 22nd August 1904.  
The rules were amended in 1907

where it is of no unusual occurrence would have been taken into account at assessment, and would not on this principle admit of the grant of relief, whereas a similar degree of failure in a rich and stable tract, not having been taken into consideration, would, on the same principle, be held to justify relief. In this matter it has been decided to accept the conclusion arrived at in 1882 and endorsed by the Famine Commission of 1901 that "relief will not ordinarily be required when there is half a normal crop." It may indeed be necessary to vary the standard for special tracts, or under special conditions, and the considerations indicated above should then be borne in mind; but it should not be departed from except in rare cases and under exceptional circumstances. On the other hand, it does not necessarily follow that the failure of more than half a crop will always justify relief, as much depends upon the nature of the harvests immediately preceding and upon the importance of the harvest in question.

561. (i) "Once it is decided that relief is necessary, it remains to determine the scale on which relief should be afforded. In dealing with the scale of relief to be given when the crops do not reach half the normal standard, it would be fallacious to suppose that the various degrees of crop-failure can be accurately dealt with by slavishly following any arithmetical formula. At the same time, without the guidance of some arithmetical standard, it is impossible to ensure any kind of uniformity in the grant of relief and accordingly, although anything in the shape of servile adherence to formula is to be deprecated, a standard scale of relief on an arithmetical basis is now prescribed for general guidance, and a scale should be laid down in this form for each district or other suitable tract. When a district comes under settlement the revision of the scale for that district will be made a part of the duties of the Settlement Officer.

Scale on which relief should be given.

"In deciding on the correspondence between the degree of relief to be given and the degree of crop-failure experienced, one important principle should be borne in mind, namely, that the degree of relief should increase, as the yield decreases, more rapidly than the degree of failure. The cultivator has to depend for his own sustenance and that of his family upon the margin left to him after his obligatory payments have been deducted from the yield of his fields. The amount required for that sustenance will, no doubt, be larger in good than in bad years, since in the latter he must be content with a lower standard of living than in the former, but there is a minimum standard below which it is impossible for him to go—a minimum which depends to some extent upon the general circumstances and habits of his class. And the deduction for subsistence being to this extent a constant quantity it is obvious that a four-anna crop will leave much less than half the margin which will be left by an eight-anna crop, out of which to pay rent or revenue. The relief, therefore, should be more than double in the former of what it is in the latter case. Accordingly, the following may be taken as a suitable type in cases where no relief is given for a failure of less than half the normal crop :—

Crop (16 annas normal)	Degree of relief.
6 annas and less than 8 annas ...	25 per cent.
4 annas and less than 6 annas ...	50 „
Less than 4 annas ...	100 „



"The above may, moreover, be looked upon as showing the degree of elaboration which is considered suitable for such scales, and the introduction of tables of relief containing much greater complication than the type above indicated is deprecated.

Caution regarding use of the scale.

(ii). "In regard to the above scale it must be remembered that in judging the value of a crop and in deciding whether it is, for instance, equal to 6 annas and less than 8 annas, regard must of course be had not only to the area matured but also to the yield. Thus occasionally bad conditions at sowing time may be followed by very favourable conditions later, with the result that outturns on a reduced matured area may be larger per acre than the normal; moreover, the general rule that yield per acre falls as the matured area decreases applies less fully to irrigated than to unirrigated lands. Other considerations, which should not be lost sight of in applying the scale of relief, as distinct from judging the value of the crop, are given in paragraph 563(iii) *infra*.

Differential treatment of landowners and estates how far justifiable.

562. "In considering the question of suspensions with reference to the treatment of strong and of poor and impoverished estates a distinction must be drawn between times of famine and widespread scarcity when suspensions on a large scale have to be given, and times when the area affected is circumscribed and purely local. Famine or widespread scarcity may be held for present purposes to be established if the area affected exceeds that which could be inspected thoroughly by the Revenue Assistant in a month. In this case no differentiation between rich and poor villages or rich and poor revenue-payers should be attempted, and such discrimination, when exercised at all, must be confined to cases of remission (see paragraph 573).\* When the area is circumscribed or purely local the Collector should use his discretion and must ordinarily hold the balance between the course of treating all the land-holders in one and the same estate alike, to which he is ordinarily practically bound by motives of convenience and expediency, and the policy which would make a distinction between the village which can pay without borrowing and that which cannot. In deciding whether suspension or remission of land revenue is called for in any estate the Collector should have regard to the consideration whether such relief is called for in the interests of the tenants, irrespective of those of the landlord. Rich landlords are often willing to pay in the revenue demand, although there has been a failure of harvest, because of the power which this gives them over tenants who have statutory rights. Consideration for the interests of the tenants of an estate may necessitate suspension or remission of the land revenue even where the landlords do not wish for any such relief. It is only in cases where Government cannot secure the suspension of rent for tenants that discrimination between rich and poor landowners is permissible, and even in such cases only the following three classes may be excluded from the relief afforded by suspensions. Firstly, the men who are known to be bad landlords and rack-renters. Secondly, those well-to-do landowners who can pay without imperilling their future solvency. And thirdly, the capitalist, money-lending, and professional classes, who

\* See paragraph 5 of Government of India, Revenue and Agricultural Department Circular No. 1-43-65, dated 9th January 1902.

hold land purely as an investment. It may indeed be true, as pointed out by the Famine Commission of 1901 in paragraph 279 of their Report, that many members of this last class are small men who speculate with borrowed capital, but there is no reason why they should not be held to their contract and should not take the risks of investment in land, as much as of any other form of investment. While, however, authorizing the discrimination of these three classes of landlords in tracts where the extension of relief to tenants cannot be secured or where the rent is realised as a share of the produce, and thus is automatically adjusted to the outturn of the harvest, Government at the same time recognizes the invidious character of any arrangement by which relief granted to landowners generally is denied to an occasional money-lender or retired Government Officer who here and there may have invested his money in land, and it will in their opinion be wise to abandon any attempt at discrimination except in areas where the classes to be discriminated represent a reasonable proportion of the landowners or own fairly large tracts of land. But at the same time the Collector should remember that, while discrimination against people of the above three classes is not prohibited, the general rule should be that discrimination between individuals should not be attempted at this stage, but should be limited to villages, or in comparatively rare cases to such *pattis* or *tarafs* of villages as are distinguished from one another in some marked way, either physically or by the caste or tribe of the landowners or mortgagees in possession. In such cases the wishes of the village community should be ascertained, but the interests of the poorer rather than those of the well-to-do members of the community should be considered. In reporting his action to the Commissioner the Collector should state briefly the policy he has followed and the reasons for discriminating where he has done so.

563. (i). "When suspensions have to be granted on a large scale The danger-Collectors should always refer to the district suspension scheme, rate. drawn up under paragraph 554 of the Settlement Manual.

"For each district, and where necessary, for each assessment circle and with the special permission of the Financial Commissioner for smaller areas a danger-rate will have been framed by the Settlement Officer, or, if special orders have been given in this behalf, by the Deputy Commissioner.

(ii). "The danger-rate is intended as a rough guide to the necessity for giving relief in insecure areas and in no way supersedes the necessity for oral and general inquiries whereby the need for such action may be otherwise established. It is not meant that suspensions shall as of course be confined to villages to which attention is called by the danger-rate or of necessity granted in such villages. Nor is it intended that the danger-rate should be used for the purpose of determining the scale on which relief should be afforded. The relief will be granted in accordance with the crop standard referred to in paragraph 12 above, after account has been taken of the considerations mentioned in (iii) *infra*. But it may safely be said that any village in an insecure tract in which at any harvest the incidence of the



revenue instalment on the matured area equals or exceeds the danger-rate, should be inspected by a Revenue Officer, and the circumstances which bear on the question, whether relief should be allowed or not, should then be fully investigated.

(iii). "Amongst these circumstances are the character of the preceding harvests and prospects of the next, the presence or absence of stocks for food or seed, the condition of the cattle, the kinds of crops grown whether for food, for fodder, or for sale, the character of the cultivation whether dependent on rain, canals, river spills, hill-torrents, or wells, the nature of the rents whether in cash or kind, the migration, if any, of tenants, the relative importance of the kharif and rabi harvests, the power of expanding the area of cultivation, the presence or absence of sources of income other than the crop such as grass, charcoal, the carrying trade, employment in cantonments, etc., the size of the holdings, and the number of rent-receivers not themselves cultivators—in short all those circumstances which show the general condition of the landowners and their capacity to pay the revenue."

Extraordi-  
nary grounds  
for relief.

564. Under the head "extraordinary" fall such calamities as hailstorms and locusts. These are accidents which the Settlement Officer could not foresee or take account of when fixing the assessment of an estate. The assets are suddenly reduced by a cause which the husbandman is powerless to control. He has no means of recouping such losses, which are as likely to affect rich irrigated crops raised by a large outlay of money and labour as the cheap millets and pulses grown on roughly tilled lands, of which the yield is normally insecure. In the case of a total and irrecoverable loss of which no account was taken in the arrangement made at settlement between the supreme landlord, the State, and the land-holders, it is but right that the former should forego its claim. Remission of the demand rather than suspension is required, and relief should be given to rich and poor alike, because by the malignity of fortune the basis of the arrangement between Government and the revenue-payers has been disturbed. Pending receipt of orders sanctioning remission the Collector should himself order suspensions. In deciding whether relief is necessary or not an adequate discrimination between the persons concerned will be secured if regard is had not merely to the field affected but to the property or holding in which it lies. If the field is cultivated by the owner, and the loss is small compared with the total income of his whole property; or if it is cultivated by a tenant and the loss is small compared with the total income of the holding, no relief need be given. No relief need be given, moreover, in areas where relief cannot be assured to the tenant, because his rent is not payable in cash, or if payable in kind is not of a fixed amount, and where the landlord belongs to one of the following classes:—

- (1) Bad landlords and rack-renters.
- (2) Well-to-do landlords who can pay without imperilling their future solvency.
- (3) Capitalist, money-lending, and professional landlords who hold land purely as an investment.

565. Fortunately hailstorms move in narrow well defined lines, and the damage done by locusts is also likely to affect some holdings more than others. Relief therefore is as a rule required not for a whole estate but only for some particular holdings. The crops grown in each field of each holding affected should be excerpted from the *khasra girdawari*, and the area of crops harvested compared with the revenue due on that holding. If so large a proportion has been lost that the incidence is excessive a portion of the demand should be remitted. The proposal for the whole estate should be the sum total of the suspensions or remissions recommended for each of its holdings. This should be the ordinary method of calculating the relief that is required, and should be departed from only when the injury extends equally to all parts of a village.

Discrimination between holdings desirable.

566. Heavy floods which destroy crops on lands not usually subject to destructive inundation may be classed as "extraordinary" calamities. But in this case the question may arise whether the water which has ruined the husbandman's hopes in the autumn will not secure to him an unusually large spring crop. If so there is no call for remission, and even suspension may be unnecessary.

Floods affecting lands not usually inundated.

567. The floods of the great rivers of the Panjab are so uncertain that, as already noted, it has in many cases been deemed wise to put the lands subject to their influence under a fluctuating assessment. Where the demand is calculated by applying acreage rates to the area of crops harvested, no question of suspension or remission usually arises. If serious loss occurs after the harvest inspection owing to some sudden calamity, such as a hailstorm or a flood, a fresh inspection and assessment should be made. In riverain villages a heavy flood sometimes sweeps away crops after they have been garnered. If the damage is great, the loss should be estimated as well as possible, and a remission of part of the demand proposed. The amount to be remitted obviously should not exceed the revenue which would have been due on account of the area on which the crops that have been lost were grown. The yield per acre can be roughly determined, and the calculation then becomes a simple one. Where the assessment is partly fixed and partly fluctuating, it will be found that in a normal year the fixed part of the demand is not a large fraction of the whole. Even so it may be prudent to suspend it in an exceptionally bad season, or when a succession of poor harvests has depressed the agriculturists. But mixed systems of assessment are not now much in favour.

Flooded lands under fluctuating assessment.

568. (i). Section 30 of the Panjab Tenancy Act provides that in the case of occupancy tenants who pay rent in cash, or rent in kind of which the amount is fixed, the Collector's order for suspension or remission of land-revenue carries with it, automatically, proportionate suspension or remission of the rent payable to the landlord. In the case of tenants who have not occupancy rights, but who pay rent of the above descriptions, the order of a duly empowered revenue officer (Collector or Assistant Collector of the first grade—see Section 76 (2) of the Act) is required to secure to the tenants the benefit of the relief granted to the landlord. A separate order of this description for each tenancy is not necessary. A general order may be passed applicable to a whole estate or to an area in respect of which suspension or

Relief to tenants.



remission has been allowed. The matter is left to the discretion of the revenue officer. In considering whether he should pass an order suspending or remitting the payment of rent by a tenant-at-will, he should carefully consider whether the issue of such an order is desirable in the interests of both the parties, but more especially of the tenant.

(ii). It must be remembered that the landlord retains the power of ejecting the tenant, of enhancing his rent, and of changing it from a cash into a *batai* rent, and may be inclined to adopt one or other of these courses if he thinks the order unfair as he may do, e.g., where a cash rent is suspended which had been fixed at a low rate in the expectation that it will be paid in full, harvest by harvest.

(iii). It will be observed that, when the Collector orders recovery of suspended revenue, any rent of which the payment has been suspended in consequence of the order suspending the revenue, becomes realizable from the tenant. In the case of tenants who have not occupancy rights, landlords may find difficulties in realizing suspended rents. The likelihood of such difficulties might constitute a special reason for the Revenue Officer refusing to pass an order suspending the rent when the revenue is being suspended, but such an order should be refused in very exceptional cases only.

(iv). If a landlord collects from a tenant rent of which the payment has been remitted or is under suspension, Section 30 gives the power to realize from the landlord and refund to the tenant the rent so realized; and it gives the further power of realizing from the landlord by way of penalty an amount equal to the rent so realized and refunded. It should be recognized that the power of imposing a penalty is to be used with some discrimination. A landlord might be willing enough to recognize the justice of requiring him to refund to a tenant rent which he had improperly realized, but might resent the imposition of the penalty and endeavour to visit his dissatisfaction on the tenant. In deciding whether the penalty should be imposed in any case the Revenue Officer should consider the possible effects on the relations between the landlord and tenant: in many cases it would obviously be to the disadvantage of the tenant that the landlord should regard him as being the cause of his punishment.

In the case of kind rents other than those mentioned above no orders are required, because where the landlord takes a fractional share of the crop the tenant gets relief automatically.

Procedure  
in case of  
suspensions  
and remis-  
sions.

569. The grant of suspensions is a matter within the discretion of the Deputy Commissioner. But the action taken must be reported at once to the Commissioner, who may cancel or modify the orders of his subordinate. The district suspension statement is forwarded to the Financial Commissioner for information after the Commissioner has recorded his orders on it and communicated them to the Deputy Commissioner. Even when the Deputy Commissioner thinks that remissions should be given at once he ought as a first step to pass orders suspending the collection of the revenue. Commissioners may sanction immediate remissions of land revenue due to any calamities in the harvest for which the land revenue is due up to a limit of Rs. 5,000 per district. They may sanction remission of revenue which has been under suspension for more than three years (paragraph 576) up to a

limit of Rs. 10,000 for one harvest per district, if they are satisfied that since the revenue was suspended due diligence has been shown in collection. Remissions sanctioned by Commissioners must be reported at once for the Financial Commissioner's information. The Financial Commissioner may sanction remissions without limit.

570. Though there are circumstances under which suspension ought to be merely a preliminary to remission, and others in which the attempt to collect arrears should after full trial be abandoned, the general rule is that suspended revenue shall be recovered whenever the return of better seasons permits. If the expectation that the landowners would in bad years meet their obligations from the stored up surplus of past harvests has had in too many cases perforce to be abandoned, there is the more reason for recovering from the abundance of future years the amount which the State is compelled to forego in the present.\*

571. Prudence in the realization of suspended revenue is not less important than prudence in the grant of suspensions, and it is a matter in which mistakes are just as likely to occur. It has sometimes been asserted that landowners set no store by suspensions coupled with an obligation to pay the arrears so created in the future. Where this feeling exists it has generally sprung from past experience of ill-considered action in the matter of the recovery of balances. The old practice of fixing in the suspension order the instalments by which the arrear was to be liquidated was a direct encouragement to such action, and has therefore been forbidden.

572. The following instructions have been issued on the subject:—

- (i). "When owing to famine or widespread calamity suspensions have been made on a large scale, the people affected should ordinarily be allowed to reap the full benefit of the first good crop or average harvest following the famine or calamity, and should be required to pay nothing for it beyond the current dues of the harvest, no arrears of revenue being collected until the second average crop subsequent to such a calamity as is now under contemplation has been reaped." Instructions on the subject. Recovery of suspended revenue after famine.
- (ii). "For every district, and where necessary for every tract in a district which has distinguishing physical features of its own affecting agriculture and the outturn of crops, a limit shall be prescribed in terms of the land-revenue for the time being assessed within which suspended revenue may be collected with any instalment in addition to the current demand. This limit will be fixed by the Settlement Officer at settlement with the sanction of higher authority or, under special orders, by the Deputy Commissioner with the like sanction at other times. The limit need not necessarily be the same for the rabi and kharif harvests respectively, but must be fixed for each harvest." Limit in terms of land revenue.
- (iii). "It is recognized that there may be tracts where the first of these rules would be unnecessarily liberal owing to the leniency of the fixed demand and the exceptional" Exceptions to rule (i).

\*See the orders of the Government of India on the Rohtak Settlement Report (Revenue Proceedings of September 1882); also paragraphs 7 and 8 of Government of India Circular No. 58, dated 18th October 1882.



fertility of the soil in good years. On the other hand, these circumstances will have been taken into account in fixing the limit referred to in the second of the two rules. It may, therefore, conceivably be better in such a tract to collect a small amount of suspended revenue with the first good or average crop after the calamity, and to take a somewhat smaller amount with the second. Proposals for limiting the operation of rule (i) should be included by Settlement Officers in the scheme for suspensions which it is their duty to draw up (*vide* paragraph 554 of the Settlement Manual), or should be made by the Deputy Commissioner if at any time specially instructed in this behalf."

Differential treatment in collecting suspended revenue of rich and poor landowners.

573. "(i). When owing to famine or widespread scarcity suspensions have had to be made on a large scale, no differentiation between rich and poor villages or rich and poor revenue-payers will have been made, but in making proposals subsequently for their collection differentiation between individuals may be necessary. A distinction should, in the first place, be drawn between the classes who cultivate the soil, whether as owners or as Government occupants or tenants, and the landlord class who hold estates which are cultivated by tenants. A man need not be excluded from the former class merely because his holding is somewhat too large for him to cultivate himself and a portion of it is in the hands of tenants, nor should the fact that a landowner, who is in the main a rent-receiver, cultivates his own home farm, transfer him from the latter to the former class; and it will not, as a rule, be difficult to distinguish the two classes with fair accuracy. Of course no discrimination between one kind of revenue-payer and another should be made in the case of persons belonging to the cultivating class. But suspended revenue should always be collected from the classes of landlords described in paragraph 562, if the rent of their tenants has not to be remitted.

Differentiation between villages.

(ii). "As between villages a certain amount of discretion in the matter is permissible, and notoriously wealthy villages may be required to pay up their arrears even though the state of the crops might not warrant their being called on to do so, but it must be remembered that all classes will have been more or less affected by the calamity, and that it is of prime importance that the effects of the calamity should be obliterated as soon as possible.

Report on policy followed.

(iii). "In reporting his proposals to the Commissioner the Collector should state briefly the policy he has followed, and in cases where he has made a difference between the rich and poor the extent to which the difference has been made."

Procedure in realization of arrears.

574. A Deputy Commissioner is required at least one month before the first instalment of the revenue of each harvest falls due to consider the circumstances of every estate in which there are arrears due to suspensions and decide what portion, if any, of the balance can be recovered in addition to the demand of that harvest. He should issue the necessary orders and put them in force. The orders and the reasons for them are embodied in a statement which is sent to the Commissioner, who modifies them, if he thinks fit, and forwards the statement to the Financial Commissioner for information. It is for the

Commissioner to see that the report of each district reaches him not later than one month before the first instalment of the land revenue falls due and that it contains a sufficient explanation of the orders issued with reference to the circumstances of the current harvest.

575. It is a futile and dilatory proceeding on the part of a Deputy Commissioner to call for reports from *tahsildars* or the revenue assistant regarding the recovery of arrears. It is far better to sit down with them and discuss the case of each village in the light of past and present crop returns and of any information which *kanungos* and *zaildar* can give. In the tours of *tahsildars* and higher revenue officers estates in which arrears exist ought to have received special attention. In deciding what part, if any, of an outstanding balance can be collected the rate at which the demand of the current harvest plus the arrears proposed for realization falls on the area of matured crops should be carefully noted, and compared with the normal incidence of the revenue on the crops of the same harvest in past years.\* It is most important that the Deputy Commissioner should himself visit estates that are believed to be in difficulties.

Remarks on realization of arrears.

The amount to be recovered should always be a definite fraction, that is, so many annas in the rupee, of the full demand of the harvest in regard to which the suspension was sanctioned.

It must be remembered that collections should always be first applied to meet the current demand.

576 (i). It has been usual in the Panjab in case of ordinary calamities of season to first suspend revenue, and, if the experience of three years has proved that it cannot prudently be recovered within that time, to remit the arrears then outstanding. It should not, however, be considered a hard-and-fast rule that in the case of ordinary calamities remission shall under no circumstances be given immediately,† or on the other hand that all arrears must be wiped out which remain unrealized for three years.‡ In unirrigated tracts with large holdings no harm will be done by keeping the account open for more than six harvests, if care is taken only to recover more than the current demand at times when this can be done without hardship to the people. But large arrears ought not to be kept hanging over the heads of landowners for an indefinite period and Government will usually remit revenue that has been suspended for more than three years, if it can be shown that due attention has been given in the interval to its recovery, and that there have been good reasons for not enforcing payment.

Remission of arrears.

(ii). In the case of fully assessed tracts, with an outturn which is fairly constant, the amount of revenue under suspension at any given time should ordinarily be limited to the equivalent of the revenue demand of an ordinary year. In this case it would not follow that

General conditions regarding the scale of remissions.

\* See columns 23 and 24 of the Abstract Village Note-book.

† See paragraphs 557 and 559.

‡ See paragraph 6 of orders of Government on the Assessment Report of *atehjang* and *Pindigheb* (Revenue Proceedings No. 29 of November 1906).



when suspensions exceeded the limit, the whole amount suspended should be remitted and, logically speaking, only the balance by which they were in excess should be so dealt with. But in the case of calamities so severe as to call for heavy suspensions, greater liberality than this will, no doubt, be desirable. An absolute and general rule that the amount under suspension should never exceed a year's revenue would be open to objection, since there are many areas of fertile soil, where there is no irrigation and the rainfall is uncertain in amount, and where, on account of this uncertainty, the revenue is pitched so low, that in a really bumper year the people could pay very much more than the revenue assessed without the slightest inconvenience.

Special scale  
for districts.

(iii). It has accordingly been determined that with the previous sanction of the Local Government it may be arranged for any district or portion of a district, that when the arrears under suspension in any village exceed a year's demand or a certain multiple or proportion thereof which shall be defined in each case, the arrears in excess of this amount shall be remitted at once, although they may not have been under suspension for three years. The details of these arrangements will be settled for each district in which suspensions on a large scale are likely to occur.

When reporting the collections of suspended revenue which he proposes to make with the Rabi instalment the Deputy Commissioner should also report any recommendation he has to make regarding the remission of arrears.

Control by  
Commissioner

577. The initiative which the Deputy Commissioner exercises in regard to suspensions and the collection of arrears is subject to the strict control of the Commissioner. The latter has necessarily a wider experience than most of his deputies, some of whom are sure to be very junior officers. The charge of divisions changes far less often than that of districts. A Commissioner therefore should be able to supply the ripe judgment, and sometimes even the local knowledge, which a subordinate may lack, and can exert his influence to ensure that the policy pursued in different districts, where similar conditions exist, shall follow broadly the same lines. If the question of suspensions and of the recovery of arrears is fully discussed with Deputy Commissioners in the course of a Commissioner's tours, which will naturally often lie through tracts which are suffering or have suffered in the past from short harvests, little subsequent interference with the orders passed by Deputy Commissioners should be necessary. Government expects the Commissioners' control of the matters dealt with in this chapter to be strict and that he will not hesitate to modify the Deputy Commissioners' orders both as regards suspension and collection, if they appear to be ill considered or not in accord with the instructions on the subject.

Suspensions  
and remission  
of cesses.

578. It was formerly the practice in the Panjab that the suspension or remission of a part of the land revenue implied the suspension or remission of a corresponding fraction of the local rate. But in consequence of the orders contained in Government of India, Department of Revenue and Agriculture, Resolution No. 13-356-10 of 21st August

1906 this has been changed. Under existing orders the local rate will no longer be proportionately suspended or remitted with suspensions or remissions of land revenue. Except in a great emergency or unless special measures in any particular case are required, the collection of the local rate will, subject to the exception noted below, be made in full at every harvest, suspensions and remissions falling on land revenue alone. Occasions may possibly arise when the remission of the local rate will be inevitable, but the intention is that under all ordinary conditions the local rate will be recoverable notwithstanding the remission of the land revenue. But when the land revenue demand in any estate has been entirely suspended or remitted, it will be convenient to suspend the collection of the local rate until the next collection of land revenue takes place. Out of the collections then made the local rate demand both current and arrears will first be satisfied, the balance being credited to land revenue. Thus in all but the most exceptional circumstances, if the whole of the land revenue is suspended or remitted, the local rate will be suspended; if only part of the land revenue is suspended, the local rate will be collected; and whenever any part of the land revenue is collected the local rate account will be cleared. These orders do not affect the headman's *pachotra*.\*

579. So far we have been dealing with evils of a temporary nature, which can be met by resorting to suspensions, and in extreme cases to remissions of the demand of particular harvests. But where estates are met with in which the revenue is always collected with difficulty it is necessary to enquire whether some more drastic remedy is not wanted. The fact that the Director of Agriculture is bound to specially watch tracts in which symptoms of deterioration appear† in no way absolves the Deputy Commissioner from the duty of himself detecting at an early stage signs of decay in any part of his district, whether in a single estate or in groups of villages, large or small. And, the fact of depression being proved, a persistent endeavour must be made to find out and apply the proper remedy.

580. As regards each village affected the first step to take is to study the Settlement Officer's note concerning it and the grounds of its assessment. The next is to trace its later history, as evidenced by the annual statements, especially the area, crop, and ownership statements, in the village note-book. The Deputy Commissioner may be fortunate enough to find remarks by some of his predecessors or their subordinates on the state of village in their time.‡ Having thus got a clear idea of the facts, so far as they have been recorded, and having heard what the *tahsildar* and the Revenue Assistant have to say, he will be in a position to make an enquiry on the spot. He may find—

- (a) that the demand imposed at settlement was from the first too high, and that there has been no growth of assets to make its present incidence fair,

\* Financial Commissioner's Circular Letter No. 3, dated 20th April 1907. See as to the village headman's *pachotra*—paragraph 308—and as to the *zaildar's inam*—paragraph 341.

† See paragraph 208.

‡ See paragraphs 404 and 407.



(b) that the demand was originally fair, but has ceased to be so because the assets have fallen off, or

(c) that the demand is fair, and the difficulty lies in the character of the people or of the headmen.

Reduction on account of over-assessment.

581. If the assessment of a tract as a whole has worked well, a prudent man will be slow to conclude that the Settlement Officer failed to gauge the resources of a particular estate. But once he is satisfied that over-assessment exists, he should not hesitate to report the fact and propose a reduction. To maintain an excessive demand is unjust to the people and discreditable to the administration. It is also the surest way of involving Government in ultimate pecuniary loss. There is a tendency to think that any revision of assessment, even though it affects but a single village, must be a difficult and intricate business. As a matter of fact it ought to be extremely simple. The elaborate calculations of the value of half the net assets made at a general re-assessment are out of place. It is enough to show that the demand is high compared with that of similar estates in the neighbourhood, whose fiscal history proves that they are properly assessed, and to lower it sufficiently to make its incidence fair as judged by that standard.

Action where difficulty springs from reduction of assets.

582. Where an assessment originally just has become burdensome through a fall in assets, the Deputy Commissioner should ascertain whether the deterioration is due to any lasting or incurable cause, or to one which the landowners can be helped to remedy. In the former case only will he propose to lower the revenue. Where the evil can be cured it is his duty to nurse the estate, helping the landowners to affect improvements by the grant of *takavi*, and during the period of restoration suspending or proposing to remit revenue in harvests in which relief is really required.

Action where difficulty is due to misconduct of landowners.

583. Where the assets are sufficient, but the people are idle and bad revenue-payers they should be treated with firmness. The headmen may be the persons at fault. The action to be taken in such cases has been noticed in paragraphs 518 and 519. If the headman can show that some of the share-holders are to blame, the coercive provisions of the Land Revenue Act should be firmly applied.

## CHAPTER XVII.

## LAND REVENUE ACCOUNTS.

584. The machinery for checking the collection of land revenue and cesses is excellent, and, if used with care and intelligence, it is easy to prevent fraud and to enforce punctuality. It need only be dealt with very briefly here. For details the reader must refer to Revenue Circular 35.

Means of checking collection of land revenue.

585. All general assessments are made for, and all revenue accounts are kept by, the agricultural year opening with the kharif and closing with the rabi, and for the purpose of collection and balance statements this year is considered to begin on the 1st of October.

Accounts kept by agricultural year.

586. In revenue accounts land revenue is classified as fixed, fluctuating, and miscellaneous.

Classification of land revenue.

587. The meaning of the first two terms as applied to village assessments has been explained in the XXVIIth Chapter of the Settlement Manual. But their signification for account purposes is somewhat wider. Thus "fixed land revenue" includes not only the fixed assessments of estates announced by a Settlement Officer, but also the income from Government lands leased for a term of years. Of course what a tenant of the State pays for such land is rent, and not land revenue. But it is important to bring on the fixed land revenue roll all items which do not vary from year to year, in order that their realization may be subject to a strict check. As a matter of convenience rents of Government lands generally take the form of a land revenue assessment cesses with the addition of a *málíkána* or proprietary fee.

Fixed land revenue.

588. "Fluctuating land revenue" falls under two main heads—
- (a) Items permanently excluded from the fixed land revenue roll, and
  - (b) Items temporarily excluded from it.

Fluctuating land revenue.

The former includes not merely fluctuating assessments of the kinds described in the Settlement Manual, but also collections from estates held under direct management.\* Fortunately the latter is a head of account which it is very rarely necessary to employ. An example of an item temporarily excluded from the fixed land revenue roll is the income derived from a lapsed *jagir* till its assessment can be added to that roll. This cannot be done till the orders of the Financial Commissioner have been received on the yearly statement of lapsed assignments in which the resumption has been reported.

589. "Miscellaneous land revenue" is the head under which are grouped receipts of various kinds, some of which are not connected with the land at all.

Miscellaneous land revenue.

\* See Paragraphs 531—533.



One important head is *tirni* or the income from fees levied for grazing in the vast tracts of Government waste lands, which are so marked a feature of some of the south-western districts.

Accurate demand statement necessary.

590. To ensure the regular collection of the revenue it is essential to have accurate demand statements drawn up yearly and periodical returns of collections and balances. It will be the simplest plan to notice separately the procedure as to each of the three main heads of account.

Fixed land revenue roll.

591. The demand statement is known as the land revenue roll, or in the vernacular as the *kistbandi*. When a general re-assessment of a district has been finished there is no difficulty in drawing up an accurate *kistbandi* showing the demand for the whole district on account of fixed land revenue. After the Settlement Commissioner has sanctioned the new *jamats* reported in the Detailed Village Assessment Statement\* the Settlement Officer prepares—

- (a) A comparative demand statement showing the fixed assessments of each estate in the last year of the old, and in the first year of the new, Settlement; and
- (b) A list of progressive and deferred assessments, if any, have been sanctioned.

The *kistbandi* for the first year of the new settlement is based on the former of these statements. Copies of both are kept in *tahsil* and district offices for use in preparing future land revenue rolls.†

Alterations in fixed land revenue roll.

592. Additions to the demand are chiefly caused by progressive assessments, lapse of assignments, and alluvion, and deductions from it by the grant of assignments, diluvion, and the taking up of land for public purposes. For each item of increase and decrease the Deputy Commissioner should be able to quote an order of the Financial Commissioner. Such orders are usually passed on periodical statements, for example all lapses of assignments are reported in a single annual return. Great care should be taken to draw up such statements correctly and punctually. It is at this stage that a loophole for future speculation is likely to be left whether by accident or design. If the entries in these periodical statements are trustworthy, the accuracy of the land revenue roll is ensured.

Duties of tahsil and district revenue accountants.

593. At each *tahsil* there is a revenue clerk or *wasil-baki-navis* who keeps the land revenue accounts. The district revenue accountant or *sadr wasil-baki-navis* checks the demand and collection statements which the *tahsildar* submits, and brings all errors and omissions, and all signs of slackness in realization, to the notice of the Deputy Commissioner. He also supplies the figures to be embodied in the demand, collection, and balance statements which the Deputy Commissioner submits to the Commissioner.

Detailed fixed land revenue roll of tahsil.

594. As soon as possible after the 1st of September each *tahsildar* has prepared for his own *tahsil* a detailed *kistbandi*, which shows the fixed land revenue, both *khalsa* and assigned and the local rate

\* See Appendix XVII in the Settlement Manual.

† For further particulars see Appendix XVIII in the Settlement Manual.

payable by the landowners of each estate, and the service commutation, if any, due from *jagirdars*. This is sent to the district office, where it is checked by the *sadr-wasil-baki-navis*, countersigned by the Deputy Commissioner, and returned to the *tahsildar* before the 1st of October. It is then the duty of the *tahsildar* to collect at the times when the different instalments fall due the amounts shown in the statement. It is a matter of practical importance that the *kistbandis* received from the *tahsils* should be returned to the *tahsildars* by the 1st of October, for the demand statements in all the *khataunis* should be filled up as regards the principal items, fixed land revenue and cesses, before the first instalment of the kharif demand falls due.\*

595. With the help of the detailed *tahsil kistbandi* an abstract land revenue roll showing the total demand for the district is drawn up and submitted through the Commissioner to the Financial Commissioner for sanction. A memorandum of increases and decreases as compared with the *kistbandi* of the previous year is appended to the roll, an order of the Financial Commissioner being quoted as the authority for each change. It is therefore very easy to check the roll and difficult to falsify it. Abstract district revenue roll.

596. Each *tahsildar* submits monthly to the Deputy Commissioner a *tauzih* or collection statement showing the progress made in the realization of the land revenue, fixed, fluctuating, and miscellaneous, and the balances remaining for recovery. An abstract of these statements is sent to the Commissioner's Office. If the Deputy Commissioner examines this with care before signing it he can see at once whether the collections are backward anywhere and a very little enquiry will elicit the reason. With the *tauzih* of the month in which the last instalment of the revenue of either the *kharif* or *rabi* harvest falls due a village list of balances of fixed land revenue for that harvest is sent up. In the last column of this statement the cause of each balance ought to be briefly explained. Here therefore the Deputy Commissioner ought to find what he wants. When the *tauzih* has been disposed of, the village list of balances is returned to the *tahsil*, and re-submitted with the necessary corrections with each succeeding *tauzih* till the balances have been realized. The district revenue accountant should understand that it is his duty to scrutinize these statements of balances, and himself bring cases of unpunctuality to the Deputy Commissioner's notice. The *tauzih*.

597. At least once in the year the Deputy Commissioner should himself thoroughly overhaul the revenue accounts in every *tahsil* office. Where this duty is efficiently performed, and the *tahsil* establishment sees that the head of the district understands the method of check and the uses of the different registers and returns, and cannot be put off with perfunctory explanations, peculation will not be attempted, accounts will not be fudged, and any tendency to slackness in collection will be checked. Inspection of *tahsil* revenue accounts by Deputy Commissioner.

598. The abstract *tauzih* forwarded to the Commissioner's Office should be carefully scrutinized there before it is sent to the Financial Commissioner as regards collections. Duty of Commissioner as regards collections.

\* See paragraph 507.



Commissioner. All the necessary control over the progress of the land revenue collections of a division should be exercised by the Commissioner, and interference on the part of the Financial Commissioner ought not to be required.

Balances of  
fixed land  
revenue.

599. During the year causes are sure to arise which justify the failure to collect some part, great or small, of the demand shown in the fixed land revenue roll. A bad harvest may make it imperative to suspend a portion of it. Again land under assessment may be destroyed by river action or purchased by the State. Properly speaking there are only two classes of balances, "recoverable" and "irrecoverable," but a third class is recognized under the name of "undetermined."

"Recover-  
able" balan-  
ces,

600. A "recoverable" balance is an arrear which has arisen either because the collection of part of the demand has been suspended by order of the Deputy Commissioner, or because the *tahsildar* has failed to realize revenue as regards which no such order exists. If at the end of the year there are large recoverable arrears not "under suspension" one of two things must have happened. Either the Deputy Commissioner must have failed to suspend revenue which he ought to have suspended, or he has not enforced punctuality on the part of his subordinates. If enquiry shows that the former is really the case, only a weak man will hesitate to repair the blunder by passing the necessary suspension order and reporting to the Commissioner the action taken.

Notes on  
balances in  
March and  
September  
*tauzih*s.

601. On the *tauzih* for the month of March the Deputy Commissioner records a brief note showing what part of the balance of the *kharif* revenue shown is recoverable, and how much of this is under suspension. If a recoverable balance not "under suspension" exists, the reason should be explained. A similar note as to the balances of both harvests should be added to the *tauzih* of the month of September.

"Irrecover-  
able" balan-  
ces.

602. "Irrecoverable" balances consist of arrears for whose remission an order of the Financial Commissioner has already been obtained. Familiar examples are the orders passed on diluvion returns or on the annual statement showing reductions of revenue on account of the acquisition of land for public purposes. Or again sanction may have been given to the remission of revenue previously under suspension.

"Undeter-  
mined" balan-  
ces.

603. "Undetermined" balances are simply balances which are in reality irrecoverable, but whose remission has not yet been sanctioned by the Financial Commissioner.

Balance  
statements.

604. As soon as possible after the end of September reports on the balances of the year which has just closed and on those of previous years are sent to the Commissioner. The object of these statements is to obtain the sanction of the Financial Commissioner for clearing the accounts of balances which cannot be realized. The executive order remitting revenue must be distinguished from the audit order to strike off a balance. The latter cannot be dispensed with, though it is the necessary sequel of the former.

605. When the assessment is a fluctuating one determined by the application of money rates to the acreage of crops which have come to maturity, demand statements are submitted after each harvest to the Financial Commissioner. The demand for the whole year cannot be determined till the spring crop is ripe.

Demand  
statements of  
fluctuating  
land revenue.

606. In the case of miscellaneous land revenue the demand statement drawn up at the beginning of the year is a mere estimate which is useless for audit purposes. The amount due under most heads cannot be known when the return is prepared, and in some cases is only ascertained at the end of the year. But, as it is essential to secure that check on collections which an accurate record of the demand supplies, a running register is kept up both in the district office and in each *tahsil*, in which every item of demand is posted as soon as it is known. The total under each head at the end of every month represents the demand to date. The form of this register will be found in Revenue Circular 35. A single example will explain its use. One head of account in the register is "lapsed revenue free holdings." Under this are columns to show the demand and the collections. As soon as the Deputy Commissioner has ordered the resumption of an assignment the file is sent to the *sadr wasil-baki-navis*, who makes the necessary entry in his copy of the running register, and notes that he has done so. The file is then sent to the *tahsil*, where the *tahsil wasil-baki-navis* does the same. No file, which contains an order creating a demand on account of miscellaneous land revenue is accepted in the record room without notes by the district and *tahsil* revenue accountants showing that the demand has been brought to record. The entry in the register is the *tahsildar's* authority for collecting the amount.

Demand  
statement of  
miscellaneous  
land revenue.

607. The demand, collections, and balances under the different heads of fluctuating and miscellaneous land revenue are shown in separate parts of the monthly *tauzih* referred to in paragraph 596. In the case of miscellaneous land revenue the demand entered is the total to date as given in running register.

Tauzihs of  
fluctuating  
and miscel-  
laneous land  
revenue.

608. After the close of the year a single balance statement is drawn up for fluctuating and miscellaneous land revenue. The Commissioner passes the necessary orders, and then forwards the statement to the Financial Commissioner's Office for inspection.

Balance  
statements of  
fluctuating  
and miscella-  
neous land  
revenue.

609. The accounts relating to mutation fees are audited by the Director of Land Records and Agriculture.

Mutation  
fees.



## Book V.—State Aid to Landowners.

### CHAPTER XVIII.

#### STATE LOANS TO AGRICULTURISTS.

Large improvements must be made by Government.

610. In a country in which the prevailing land tenure is the ownership of the soil in small parcels by peasants who till their own fields, improvements involving a large expenditure of capital must be made at the cost of the State. To this class belong the great perennial canals, which are a special feature of the Panjab, and have enormously increased its produce. But in addition the peasant proprietors of the province have at their own cost since annexation vastly improved their holdings in many ways, and especially by the construction of wells.

Duty of State with reference to improvements made by landowners.

611. It is at once the duty and the interest of the State so to regulate its land-revenue assessments as to ensure that improving landowners shall obtain a proper return for their expenditure. It is equally its interest and its duty to advance money for improvements if landowners find it hard to raise loans for that purpose in the open market. The former branch of the subject is dealt with in paragraphs 501—508 of the Settlement Manual; the latter will be discussed in the present chapter.

Why Government loans are necessary.

612. It is notorious that in India, even solvent and industrious landowners can only obtain private loans on very burdensome terms as regards interest. Accordingly the British Government, following the example of Native Administrations\* has stepped into the breach, and offered loans for agricultural improvements at a moderate rate of interest fixed with a view not of bringing profit to the Treasury but merely of securing it against the risk of loss. Such State loans are known as *takavi*.

Early rules on the subject.

613. The grant of agricultural loans to private person was a feature of our Indian Administration from a very early date. Section XXII of Bengal Regulation II of 1793 forbade Collectors to advance money on account of *takavi* without the express sanction of the Board of Revenue and Section XL of Regulation XIV of 1793 provided that "arrears of tuccavy, or any money advanced by Government to proprietors . . . for making or repairing embankments, reservoirs, or water-courses, or other improvements to their estates' might be recovered as if they were arrears of land revenue. Soon after the annexation of the Panjab the Board of Administration announced that it was prepared to sanction advances for the repair of old wells, for the sinking of new ones, and for the excavation of water-courses.† The power of sanctioning *takavi* for works of permanent utility was delegated to Commissioners, but they had no power to give loans for the purchase of bullocks or seed.‡.

\* Thomason's Directions for Collectors, edition of 1858, paragraph 45.

† Board of Administration Circular No. 41 of 1850.

‡ Board of Administration Circular No. 13 of 1851.

614. Seven or eight years later the system had become dis-credited owing to want of care in working it, and orders were issued to the effect that "the Lieutenant-Governor desires to discourage such advances as much as possible, and in particular deprecates their being made to impoverished villages suffering from over-assessment and entitled to a reduction of revenue, and that henceforth no *takavi* advance shall be made except in cases where security for prompt repayment can be obtained.\* The remarks on the subject in Cust's Revenue Manual are coloured by the economic doctrine of *laissez aller* in favour 40 years ago.

System dis-credited in 1859.

He wrote —

"Undue interference with the landowners, though with the best intentions, is to be deprecated and generally fails . . . . . It is notorious that every village has its banker and . . . . . as long as credit exists, so long will advances for purely agricultural purposes in ordinary times and in ordinary cases be forthcoming, and the Government had better leave the matter alone . . . . . As a general rule the practice should be discouraged ; it is one for exceptional periods, and in a newly conquered country. The people should be left to their own resources and credit as regards works of permanent utility. Advances for bullocks and seed are wholly to be condemned. In a financial point of view it must be remembered that we are paying five per cent. for the money advanced, and there is no necessity for the sacrifice."†

These views have long since been abandoned. But even the latest orders of the Government of India, in which a very liberal *takavi* policy is advocated, contain a note of warning—

"The Governor-General in Council thinks it necessary to utter a word of caution against what he considers to be a very real and practical danger, namely, the danger of creating, by too active a policy, a forced and spurious demand for these advances. Even under the most favourable circumstances irrigated cultivation requires, at all events in the case of wells, more capital than dry cultivation ; and in many parts of the country, where the wells are costly and their results uncertain, and where physical conditions make it possible to irrigate only a small area from each well, only the highest form of cultivation, which entails very considerable annual expenditure, is likely to be profitable. In such a case it is worse than useless to encourage a peasant to contract a debt for the construction of a well, the profitable working of which is beyond his resources ; and the Government of India, while they are anxious to see the system of advances administered in a sympathetic spirit and made as simple and liberal and elastic as possible, trust that no excessive inducements will be held out to individuals to apply for loans which they may find it difficult to repay, and that any increase of demand will be spontaneous and therefore healthy."‡

\* Book Circular LXXIV of 1859.

† Cust's Revenue Manual, pages 135—138.

‡ Government of India, Revenue and Agricultural Resolution No. 6—204-16, dated 30th November 1905, paragraph 15.



Act XXVI of  
1871.

615. The first legal enactment on the subject of loans for agricultural improvements which affected the Panjab was passed in 1871 (Act XXVI of 1871). The verdict on the working of this Act passed by the Famine Commission of 1880 was that "it has failed to realize the intention of promoting improvements, and that there is a very general reluctance to make use of its provisions. The sums which have been advanced under the Act are extremely small, and bear no proportion whatever to the need which the country has of capital to carry out material improvements." Act XXVI of 1871 and the rules under it were needlessly complicated, but it may be doubted whether the failure on which the Famine Commissioners commented was due to that cause. *Takavi* loans will be popular where they are obtainable without much trouble, and without payment of many *douceurs* to the underlings of the Revenue Department, and where the recovery of the instalments is made with consideration in seasons of scarcity. These requirements depend mainly, not on the provisions of any Act or rules, but on the willingness of those responsible for their working to take pains and to exercise a watchful supervision over the proceedings of their subordinates.

Act XIX of  
1883.

616. The Act on the subject now in force was passed twenty years ago (Act XIX of 1883). It is a short and simple enactment, and leaves much to be provided for by rules to be issued by the Local Government.\*

Persons to  
whom loans  
may be  
made.

617. Loans may be granted for the purpose of making an improvement "to any person having a right to make that improvement, or, with the consent of that person, to any other person."† The 9th section also provides for loans to several persons or to all the members of a village community on their joint liability. In the 7th paragraph of Resolution No. 6—204-16, dated 30th November 1905, the Government of India strongly endorsed the "opinion recorded by the Irrigation Commission (of 1903) that the joint personal security of several persons may often be accepted as sufficient to ensure the repayment of a loan, and recommend for the consideration of Local Governments the rule now in force in Madras to the effect that when a loan is applied for by the members of a village community or by a group of cultivators on their joint personal security, the Collector may, at his discretion, advance on such security an amount not exceeding five times the annual assessment of the land held by the applicants."

Definition of  
"improvement."

618. The definition of "improvement" is a wide one and covers much the same ground as that contained in the Tenancy Act.‡ It may be expanded by notification so as to include "such other works as the Local Government, with the previous sanction of the Governor-General in Council, may ..... declare to be improvements.§ The vast majority of the improvements for which loans are taken come under the first clause of the definition, namely, "the construction of wells, tanks, and other works for the storage, supply, or distribution

\* Section 10.

† Section 4 (1). As regards the right of tenants to make improvements see paragraphs 78 and 80-81.

‡ Section 4 (2). Compare paragraph 76 of this Manual.

§ Section 4 (2) (f).

of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture.\*

619. The period allowed for repayment is ample. It "shall not ordinarily exceed thirty-five years" from the date on which the loan has been completely taken up. The Panjab rules, however, reduce this period to twenty years† except in special cases. In the resolution quoted above it is remarked that "the Government of India are of opinion that in the case of ordinary improvements a twenty years' term for repayment is generally sufficient for the following reasons. An examination of interest tables drawn up to show the amount of the annual or half-yearly instalments required to discharge within different periods a loan of Rs. 100 at 6 or even at 5 per cent will prove that to extend the period of repayment beyond twenty years effects no substantial reduction in the amount of the annual or half-yearly instalment; so that such an extension affords no great immediate advantage to the borrower, while it burdens him for a longer term with the duty of making repayments. A still stronger reason is to be found in the consideration that the amount of funds available for making such loans is limited, and that the rate at which fresh loans can be made depends to a large extent on the rate at which the money already out on loan is repaid to Government, so that it may be utilised by being re-issued in the form of further loans. Thus to extend the term generally adopted for repayment would reduce the number of improvements which could be aided by means of the total sum available, and render it less effective for the purpose in view. The Government of India therefore are of opinion that the ordinary term for repayment should not exceed twenty years, but they have no objection to a Local Government taking the power to grant a longer term in special cases."

620. In order to protect the Treasury from loss and to enable it to lend on easy terms as regards interest, large powers are taken to enforce recovery by executive action. Instalments of principal and interest which are overdue may be realized from the borrower or his surety (if one has been required) as if they were arrears of land revenue due by them.‡ The land for whose benefit the advance has been made can be dealt with as if it was land in respect of which an arrear of land revenue exists.§

621. In the rare case of other property being hypothecated as security for repayment it can be sold as if it were immoveable property of a land revenue defaulter other than the land on which an arrear is outstanding.|| The lien of Government over the land for which the loan is granted and over the property (if any) comprised in the collateral security takes precedence of the right of any mortgagee over it, even though the mortgage be of earlier date than the advance.¶ In actual practice it is unusual to give *takavi*, unless the land for whose

\* Section 4 (2) (a).

† Section 6 and rule 8 issued with Panjab Government Notification No. 79, dated 11th July 1901.

‡ Section 7 (1) (a) and (b).

§ Section 7 (1) (c). See paragraphs 521 *et seq.* of this Manual.

|| Section 7 (1) (d). See paragraph 539 of this Manual.

¶ Proviso to Section 7 (1).

Arrears recoverable as arrears of land revenue.

Lien of Government on land for improvement of which loan is given, and on land hypothecated as security.



improvement it is required is free from encumbrances, but the provision of the law referred to above makes it needless to institute very elaborate enquiries regarding title. If the surety or the owner of any property hypothecated as collateral security pays an arrear, he can require the Deputy Commissioner to recover the amount on his behalf from the borrower.\*

Interest.

622. By the 13th of the rules under the Act† the rate of interest has been fixed at  $6\frac{1}{4}$  per cent or one anna in the rupee. But in any particular case a loan at a lower rate or without interest may be sanctioned by the Local Government.‡ Ordinarily a penal rate of compound interest not less than  $6\frac{1}{4}$  per cent. should be charged on overdue instalments, and, if a Deputy Commissioner decides to forego it, he must record his reasons.§ This rule should be worked discreetly. It is futile to charge compound interest on a petty arrear of a few days standing. It is well therefore to tell *tahsildars* what period of grace may be allowed before the penalty is enforced. A fortnight is a reasonable time. In the fourth paragraph of resolution No. 6—204-16, dated 30th November 1905, the Government of India remarked that—“Local Governments should be prepared to remit or reduce compound and penal interest in cases in which they are satisfied that the failure is due to inability to pay and that the levy of such interest would be productive of hardship.”

Allotment of funds, and power of sanction.

623. An allotment of funds for *takavi* is put each year at the disposal of the Deputy Commissioner. So long as this is not exhausted he may make advances not exceeding Rs. 1,000 in each case of his own authority. Larger loans require the sanction of the Commissioner or, if in excess of Rs. 5,000, of the Financial Commissioner.||

Loans should be of adequate amount.

624. Care must be taken in cutting down the amount applied for. The grant of an inadequate sum defeats the object of the Act, and is very likely to lead to the misapplication of the loan. It is better to refuse an advance outright than to give one which is not sufficient to ensure the completion of the projected work.

Collateral security not usually required

625. The applicant's interest in the land to be improved is usually amply sufficient to cover the loan, and, when this is the case, no collateral security need be required.¶

Repayment.

626. A loan may be made in a lump sum or by instalments. Repayment should not begin until, assuming reasonable diligence on the part of the landowner, the improvement will yield a return. “The Government of India think that within reasonable limits the convenience of the borrower may be consulted, and that the object should be to ensure that payment, either of principal or interest, is never exacted before the date when, by the exercise of such due diligence as may reasonably be expected of an Indian peasant, the profits of the improvement might be expected to cover the payment. This

\* Section 7 (2).

† Panjab Government Notification No. 79, dated 11th July 1901, reproduced in Revenue Circular 55.

‡ Rule 13 (b).

§ Rule 13 (c).

|| Rule 1.

¶ Rule 6 (a).

period of grace should not, however, exceed 2½ years in any case, and interest should be charged during its currency. (Resolution No. 6—204-16, dated 30th November 1905, paragraph 6.) Instalments are recovered half-yearly on the dates on which the first instalment of the land revenue of each harvest falls due. Repayments are so arranged as to permit of the realization of an equal sum in each half-year.\* Recoveries may not be spread over a period of more than twenty years except with the sanction of the Local Government.† A less term is often sufficient, and the rules require advances to be repaid within as short a period as is consistent with the object for which they are made.

627. The spreading of repayment over an unnecessarily long period means actual loss to the borrower on account of increased interest charges. When the full term of twenty years allowed by the rules is fixed the sum recovered on account of interest is equal to the principal, and the equated half-yearly payment on account of principal and interest in the case of a loan of Rs. 100 is Rs. 5. On the other hand the borrower can repay the loan in ten and fifteen years by half-yearly payments of Rs. 7-11 and Rs. 5-14, respectively (see table appended to Government of India Resolution No. 6—204-16, dated 30th November 1905). If this is understood by the borrower, the first thing to consider is his reasonable wishes. If the security is good, there is no great object in increasing or curtailing the period of repayment which the borrower desires and for which he can give good reasons. The matters which should weigh with him and with the Deputy Commissioner are the cost and durability of the improvement made, the necessary expense of maintenance, the rate and amount of the probable return, and the period from which it will begin to accrue. The debtor can of course at any time repay the whole amount still due on the loan, and thus close the transaction. Considerations bearing on period of recovery.

628. We have seen that the law has supplied the Deputy Commissioner with very powerful weapons to enforce the repayment of loans. But it is only in the rarest instances that resort to them is necessary, and *takavi* is generally recovered with ease and regularity. Loans usually recovered easily.

629. The Deputy Commissioner may order the suspension of any instalment in consequence of the failure of crops or any other serious calamity, reporting his action to the Commissioner.‡ “Suspension should be given without hesitation, whenever from causes beyond the borrower’s control his crops fail to such an extent as to render the payment of the instalment unduly burdensome to him; whenever suspensions of revenue are granted on a large scale over a wide area they should carry with them automatically suspensions of the *takavi* instalments which may be due the same year; the officer who has authority to grant the loan should also have authority to grant suspension; and the suspended instalment should not be made payable in the ensuing year with the instalment of that year, but the effect of suspension should be to postpone for Suspensions and remissions.

\* Tables to assist in the calculation of the amount of principal and interest to be recovered with each instalment are given in Revenue Circular 55.

† Rule (8).

‡ Rule 13.



one instalment period the payment of all remaining instalments due on the loan. When a man borrows money he should be required to repay the loan with interest ; but time should be given him to make those repayments in such a manner as will not be ruinous to him. As regards remissions, the Government of India are of opinion that it is a sound principle not to remit repayment of a loan so readily as remissions of ordinary land revenue are granted, and that as a general rule the risk of the failure of an improvement should be borne by the borrower, as this affords the best guarantee that the money will be judiciously applied" (Government of India Resolution No. 6—204-216. dated 30th November 1905.) The Commissioner can sanction remissions not exceeding Rs. 250 in each case. For larger amounts the orders of the Financial Commissioner are required.\*

Remarks on  
procedure.

630. The rules have been framed with the object of making the grant of loans prompt and easy. To ensure that this object is not defeated the Deputy Commissioner should set his face against all vexatious formalities, and especially against repeated summonings of the applicant to the *tahsil*. There is no reason why an ordinary *takavi* case should occupy more than three weeks from first to last. Revenue officers of any grade can receive applications, which may be written or oral.† In the case of the latter a few questions put to the applicant by the revenue officer will enable him or his reader to fill up the very simple printed form of application. On the back of that form there is a note stating the different points regarding which a report is necessary. Landowners should be encouraged to present their applications to revenue officers in camp in order that the enquiry may be made at once, and that the necessity of summoning the applicant and his headman to the *tahsil* may be avoided. In an ordinary case the simple enquiry called for can be made with the greatest ease. All that is required is for the revenue officer to see the land for whose improvement the loan is asked, to obtain an extract from the entries regarding it in the last annual record, and to put a few questions to the applicant, the village headman, and the *patwari*. The Government of India have authorized a system of employing selected officers to take money into camp and disburse loans on the spot.‡ If however the necessary information cannot at once be obtained, the enquiry can be made by a field *kanungo*, if the loan does not exceed Rs. 300. The *tahsildar* must state in his report whether the applicant wishes to receive payment at the *tahsil* or at the *sadr*. In the former case his attendance at the district office is usually quite unnecessary. When the *tahsildar* decides to recommend the loan he sends the file to the district revenue accountant (*wasil-baki-navis*), and, if the applicant is to receive the money at the district office, gives him a slip containing the date on which he is to appear before the Deputy Commissioner. The date should be so fixed as to give the revenue accountant time to check the file carefully before it is brought before the Deputy Commissioner for orders.

\* Rule 16.

† Rule 3.

‡ Government of India, Revenue and Agricultural Department, Resolution No. 2—413-2 of 1st March 1905. Compare paragraph 11 of Resolution No. 6—204-16 of 30th November 1905.

631. The order of the Deputy Commissioner is in a prescribed form, at the foot of which is a statement over the signature of the borrower that he has understood and agreed to the conditions stated in the order. One of these is, that the loan shall be applied solely to the purpose set forth in the order, and that, if any part of it is misapplied, the whole shall be at once recoverable. The Deputy Commissioner may, and as a rule ought to declare in the order the period within which the work must be completed. If he does so, failure to finish it in the time specified is declared to amount to misapplication. Of course a condition of this sort must be enforced with great discretion. Order sanctioning loan.

632. Works which are being constructed with the aid of *takavi* loans ought to be inspected from time to time by revenue officers. When they go into camp they should take with them a list of all unfinished works for which loans have been granted in the tract which they mean to visit, and make a brief report of the state of each work to the Deputy Commissioner. Works for which advances have been made in a lump sum should also be inspected and reported on as soon as possible after the date (if any), on which their completion was directed in the order granting the loan. In the case of an advance made by instalments the work should be reported on before each instalment subsequent to the first is paid. Great care must be taken that the completion of the work is not delayed because the inspection preliminary to the payment of an instalment is not made promptly. If the Deputy Commissioner is satisfied that the first instalment has been misapplied, he should order it to be recovered, and make no further payment. Inspection of works.

633. The Agriculturists' Loans Act, XII of 1884, which replaced an earlier Act X of 1879, enables the Local Government, with the previous sanction of the Governor-General in Council, to make rules as to the grant of loans "to owners and occupiers of arable land for the relief of distress, the purchase of seed or cattle, or any other purposes not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects."\* As in the case of a loan under Act XIX of 1883, an advance may be made to several persons or to all the members of a village community on their joint and several responsibility.† Act XII of 1884.

634. It has been ruled that "the relief of distress" means "the relief of *agricultural* distress, that is to say, distress directly due to calamity in agriculture, such as the destruction of crops by draught or floods, hail or blight, or the loss of cattle by disease. It must be satisfactorily shown that the distress to be relieved is directly traceable to the failure of some agricultural process, or to damage to crops, articles of husbandry, or cattle." The words "any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects" must be interpreted as referring to purposes directly connected with agriculture and its processes. They would cover, for example, the advance Objects for which loans may be made.

\* Section 4.

† Section 6.



of money to buy agricultural implements, such as a sugarcane mill, or to construct indigo vats. But a loan to a village community to enable it to build a new *abadi* on a healthier site would lie outside the scope of the Act. Doubtful cases should be referred to the Financial Commissioner.

Advance to  
tenants-at-  
will.

635. Advances may be made to tenants-at-will, as well as to owners and occupancy tenants. In a tract where much land is mortgaged to money-lenders the case of such tenants is a difficult one to deal with. The mortgagees will very likely refuse to supply seed themselves or to be sureties for the repayment of advances to be made by Government to their tenants. And in the case of a landless man it is not safe to grant even a small loan without security.

Arrears re-  
coverable like  
arrears of land  
revenue.

636. Like Act XIX of 1883, the Agriculturists' Loans Act of 1884 provides for the recovery of overdue instalments of principal and interest from the borrower or his surety as if they were arrears of land-revenue due by them.\* It makes no allusion to the hypothecation of immoveable property as security, and this should rarely be required.

Term of  
loans.

637. A maximum period of ten years is allowed for the recovery of a loan.† But ordinarily advances for the purchase of seed should be repaid from the crop produced from the seed and those for the purchase of plough cattle within two years.‡ In practice loans under the Act are almost invariably made for one or other of these purposes.

Interest on,  
and recovery  
of, loans.

638. The rules§ as regards interest, and recovery, suspension, and remission, of loans are practically the same as those dealing with the same matters issued under Act XIX of 1883. No interest is usually charged on small advances repaid within twelve months. Where interest is paid the rate should be 6½ per cent.||

Use made of  
the Act.

639. It is not the object of Act XII of 1884 to supplant the village *sahukar* as the source from which the peasant landowner draws the small temporary loans which he constantly requires in carrying on his business. It usually comes into play when the village bankers have for the time being ceased to lend altogether. Hitherto therefore no great use of the Act has been made except in seasons of severe and prolonged drought. Small capitalists in rural districts are a very timid race, and the difficulties under which the people labour at such a time are much aggravated by the drying up of credit. Unless therefore the State came to their aid, tracts which have suffered from scarcity would recover slowly even on the advent of better seasons, and many a man would be ruined outright for want of a little ready money at a critical period to provide himself with the means of tilling his fields. It remains to be seen whether any such

\* Section 5.

† Rule 6.

‡ Ditto.

§ Rules 5 and 7-10.

|| In paragraph 11 of Government of India Resolution No. 6-204-16, dated 30th November 1905 the opinion is expressed that "as a general rule it is good policy to require a borrower.....to pay a fair rate of interest....., and that, save in very exceptional circumstances, the same rate of interest should be charged as is charged on loans made for the improvement of land".

change in the relations between landowners and money-lenders will be caused by the Panjab Alienation of Land Act as to make it necessary to employ Act XII of 1884 more freely in ordinary times. The latest orders of the Government of India certainly encourage liberal advances under the Agricultural Loans Act "where funds are available" even in ordinary times.\*

640. Care should be taken only to make these advances at a time when they can immediately be put to a profitable use, otherwise they are sure to be misapplied. Loans for the purchase of seed should only be made when the land is irrigable, or has received from rain, floods, or percolation sufficient moisture for the seed to germinate. It is useless to advance money for the purchase of plough or well cattle unless the borrower has the means of keeping them alive. The want of fodder is one of the worst evils from which drought-stricken tracts in the Panjab suffer, and it is the evil with which Government finds it most difficult to deal.

Advances for purchase of seed and cattle.

641. Special caution is necessary in granting loans for the replacing of cattle which have died from rinderpest. The virus of that disease retains its vitality for at least seven or eight months. All the discharges from an infected animal during its illness contain the poison in large quantity. It is therefore worse than useless to help the owner to buy healthy stock unless his village has been free from disease for about a year, unless it is certain that disinfection has been thoroughly carried out.

Caution as regards loans in tracts afflicted by rinderpest.

642. Experience has shown that, when fodder becomes excessively dear in one part of the province, it can be profitably imported by rail from a considerable distance. If it is obtainable in this way, but only at a price which is beyond the means of the poorer landowners, it is reasonable to make small advances to enable them to buy the food necessary to keep their plough, and more especially their well, bullocks alive. The main object is to help men who have managed to start a *rabi* crop on their wells, to work them till the crops are ripe. As regards plough cattle the need is less urgent. Before granting advances for feeding them one must consider whether they are required on the spot at the time. If not, it is better that they should be driven away to some tract where grass is procurable. It is the custom where herds are kept for pastoral purposes to drive them in seasons of drought into the low hills or the river valleys. There is therefore no object in giving *takavi* to graziers. Loans for the purchase of fodder should only be made—

Advances for purchase of fodder.

- (a) in small sums not exceeding Rs. 20 in each case, or, if the advance has to be repeated, on each occasion;
- (b) on condition of repayment without interest out of the next crop;
- (c) between the 15th of December and the time when the ripening of the *rabi* crop is secured.

643. It is essential that advances under Act XII of 1884, which are usually small in amount, should be made without any delay.

Procedure must be exceedingly prompt.

\* Resolution No. 6—204-16, dated 30th November 1905, paragraph 11.



A poor man who wishes to take advantage of long looked for rain to plough or sow his fields cannot wait while files are being sent backwards and forwards between the *tahsil* and the district office. The rules, therefore, provide that the Deputy Commissioner may, with the previous sanction of the Commissioner, empower any of his staff of Assistant Collectors from the Revenue Assistant down to a *naib-tahsildar* to sanction loans not exceeding in each case Rs. 100 for cattle and Rs. 20 for seed.\* He should satisfy himself that the selected officer understands fully the circumstances under which loans should be made. It is a good thing to let him take the money which is likely to be required into camp and distribute it on the spot. This plan for the distribution of *takavi*, which has been sanctioned by the orders referred to in paragraph 630, is particularly suitable in the case of advances under Act XII of 1884. The money required can be drawn on abstract bills and accounted for in the same way as contingent expenditure.†

Employment  
of special  
officer.

644. When the total amount to be advanced will be large the Commissioner may find it necessary to apply to the Local Government to post an additional Extra Assistant Commissioner or *tahsildar* to the district. He can be given the powers of a Deputy Commissioner under the rules, but will of course be as completely under the orders of the district officer as any other member of his establishment. If the extra officer has no previous local experience, it will usually be best to make him relieve one of the ordinary district staff who can then be employed solely on *takavi* work.

Further  
orders of  
Government  
of India.

645. Having explained the extent to which the state is prepared to advance money to agriculturists in ordinary times it remains to quote the recent orders of the Government of India as to free grants for the encouragement of irrigation works in very insecure tracts and as to loans in anticipation of or in presence of famine. These are contained in the 10th and 12th paragraphs of the Resolution from which several extracts have been given in this chapter.

Grants in aid  
of irrigation  
works in in-  
secure tracts.

646. "The Irrigation Commission (of 1903) have made certain proposals with the view of encouraging irrigation in specially precarious tracts. They recommend that in selected areas, which have suffered severely in recent famines and have not since obtained by irrigation or otherwise protection sufficient to guarantee them against the recurrence of similar calamities, landowners should be encouraged to apply for loans on ordinary conditions sufficient to pay for a portion of the cost of the contemplated improvements, and that Government should make a free grant of the remainder of the cost, the proportion of the free grant to the total cost depending on the property of the applicant and the marginal profit from irrigation, the suggested maximum being half the total amount required up to a limit of Rs. 500. The Government of India have no objection to free grants being made under such circumstances, i.e., when they are applied to works the success of which is calculated to reduce future expenditure on famine relief."‡

\* R rule ( ). Applications may be sent by post (Rule 3).

† Financial Commissioner's Circular Memo No. 1, dated 18th September 1905.

‡ Any grants that may be made are chargeable to provincial revenues.

647. "The foregoing considerations are applicable to the case of loans made in ordinary times, and it remains to consider the case of loans made to agriculturists in anticipation of scarcity or during the currency of famine. As regards such loans the Government of India agree with the opinion expressed by the Famine and Irrigation Commissions that loans to agriculturists are especially required in the very early stages of famine as a measure of moral strategy and to put heart into the people, and that a system of advances when made in good time and with prudent forethought is a most efficient form of relief, and one which can to a very great extent be freed from the pauperizing influences of State charity. These principles have been incorporated in the revised Famine Codes and will no doubt be acted upon when occasion arises. It has been usual in most provinces to make advances in famine times on low interest or free from interest altogether, and to remit them with great generosity. The Government of India however agree with the Famine Commission that this is mistaken charity, likely to demoralise the people. They are of opinion that these advances should always carry interest at the usual rate, and that while due regard should be paid to the subsequent seasons and the circumstances of the borrowers, repayment of these loans should take precedence of the recovery of arrears of land revenue. If it is necessary to grant some remission, it should take the form of a remission of land revenue, and the loan with interest should be recovered; or if this will involve great hardship, a portion of the loan itself, and not merely the interest, should be remitted. In times of famine in place of granting loans free of interest, the system of making free grants in addition to repayable loans, already alluded to, may be freely utilised. Advances may be made to landowners for the construction of private works to enable them to give employment to the poor, a portion of the advance being made in the form of a loan repayable with interest on ordinary terms, and the remainder in the form of a free grant-in-aid from famine funds, to be spent on the employment of labour in accordance with the system of "Aided Village Works," for which provision has been made in the revised Famine Codes. In such times a similar system may be adopted as regards advances for the purchase of seed, fodder, or cattle."

Loans in  
times of  
famine.



## CHAPTER XIX.

## RURAL CO-OPERATIVE CREDIT SOCIETIES.

European  
agricultural  
banks.

648. The indebtedness of peasant landowners had been quite as sore an evil in some parts of Europe as anywhere in India. There, as here, the question of providing cheap and safe credit has loudly demanded an answer. In Germany, Italy, and to a less extent in some other European countries, a system of co-operative credit societies, shortly known as "village banks," has done much to solve the problem, or at least to show how it can be solved. An account of these European Associations, which were slowly developed by the efforts of men like Raiffeisen in Germany and Luzzati in Italy, will be found in Mr. Nicholson's "Report regarding the possibility of introducing Land and Agricultural Banks into the Madras Presidency," or in a more popular form in Mr. Dupernex's "People's Banks in Northern India." Self-help is infinitely better than State aid, and the Italian and German village banks have done for their members far more than any system of *takavi* can do for the peasant owners of the Panjab.

Possibility of  
introducing  
such banks  
into India.

649. The question of the possibility of introducing into India a plan which has succeeded so well in Europe has been much discussed of late years, and some experiments have been made. The matter is too important to be passed over without notice. But no attempt will be made to do more than in the first place to explain with the utmost brevity the object and constitution of a village bank, secondly, to sketch the history of the discussion referred to above, thirdly to describe one or two societies of this description which exist in the Panjab, and lastly to notice shortly certain conditions which must be fulfilled if village banks are to succeed, and the way in which these have been dealt with in the legislation on the subject recently under-taken.\*

Nature of  
"rural banks."

650. The business of these co-operative credit societies is not strictly speaking banking. But that being understood it will be convenient in the sequel to describe them by the term "rural banks." A rural bank then is a voluntary association of respectable agriculturists dwelling in the same locality † formed for the purpose of lending money on reasonable terms to its own members.‡ The best form of rural bank is that in which the capital is obtained by the subscriptions of the members. But, even if a bank makes its loans out of borrowed capital, it can afford to give its shareholders advances at a lower rate of interest than they would have to pay if they resorted to an outside money-lender.

\* The chapter was written some years before the publication of the manual.

† Section 3 (1) (a) of the Co-operative Credit Societies Act (X of 1904). References to sections in this chapter are to sections of that Act. "In a rural society not less than four-fifth of the members shall be agriculturists." [Section 3 (2)].

‡ Section 10 (1).

651. In the first place the joint credit of the members of such an **Whyrural** association is much greater than the credit of any single member. **banks can** Borrowing at a low rate of interest, it can afford to re-lend at a higher, **make loans at** but still moderate rate, because the exact knowledge which the **moderate** Committee of Management has of the character, the needs, and the **rates.** resources of every shareholder enables it to give to each borrower no more and no less than he requires and can be trusted to repay. Again, one great reason of the high rate of interest charged by Indian money-lenders is the dishonesty of their debtors. But a peasant who will do his best to cheat a *sahukar* will act fairly by his own fellow-tribesmen united in a society of which he himself is a partner, just as a gambler, who may think little of defrauding his tailor, will not fail to pay his losses at his club card table.

652. If co-operative credit ever takes root in Panjab villages, the **Best form of** associations formed will not be of a single model or follow exactly any **rural bank for** European type. But the form of rural bank which possesses most of **Panjab.** the features one would like to see reproduced here is that devised by Raiffeisen. The following account of the Raiffeisen credit unions is therefore interesting: "Originating in Germany in 1864 the progress . . . . . was slow until 1879, but from that time the increase has been very rapid, until now the unions number probably above 2,000. In the small Kingdom of Wurtemberg alone, hardly larger than a Madras district, there were in 1891 no less than 477 rural banks of this class. The effect on the members is described as marvellous: usurers have been ousted, the peasants taught both to save and to use savings productively, the spirit of association developed, habits of business inculcated, and new methods of economic and social progress encouraged. The following are the chief features of the average society,—it is absolutely local; administration is gratuitous; share capital is kept low, the guarantee being the solidarity of members; all profits go to the reserve; loans are confined to members and may be of long term; and as far as possible all funds are the result of local thrift. These conditions excite local confidence and hence draw in local capital; there is an exact knowledge of clients and a powerful public opinion both working against fraud; petty business is not discouraged, but rather preferred; the productive use of loans can be watched; small plots of land falling in as security can be utilized advantageously; there is a steady educative influence in thrift, association, and self-help; and there is a tendency to develop high forms of public and private character."\* It may be added that good character is an indispensable qualification for membership.

653. It is more than 20 years since the question of agricultural **Discussion of** banks was first discussed in India. At that time the indebtedness of the **subject in** Deccan ryots and the bad relations existing between them and the **1883 bore no** foreign usurers settled in their villages, forced itself on the attention of **immediate** Government, and led to the special legislation embodied in the Dekkhan **fruit.** Agriculturists' Relief Act (XXII of 1882). About the same time a Bombay Civilian, Mr. (now Sir William) Wedderburn, advocated the

\* See paragraph 5 of Madras Government Order No. 701, Revenue, dated 13th October 1899, reprinted in Panjab Government, Revenue Proceedings, No. 2, of January 1901.



establishment of agricultural banks. Provisions on the subject were actually included in the first draft of the Bill which in its final form became the Land Improvement Loans Act, XIX of 1883. But the views of the Secretary of State of the day were not favourable to the grant of any State aid for such an enterprise. He rejected a proposal of the Government of India for the establishment of an experimental agricultural bank in the Poona district on the ground that Government would provide, at least in the first instance, a great part of its capital, would grant to the bank certain privileges, and would in the last resort collect its debts.\*

Mr. Nicholson's report to the Madras Government.

654. The question slept for some years after this rebuff. But in 1892 the Madras Government put Mr. Nicholson on special duty to enquire into the possibility of introducing a system of agricultural banks into that presidency. His elaborate report was reviewed in 1896 by the Madras Board of Revenue, and three years later the Madras Government submitted a copy of its order on the subject to the Government of India.

History of discussion since 1900.

655. The discussion of the question in the Panjab had its origin in a letter addressed in October 1900 by the Supreme Government to the Local Government, in which it declared that "the possibility of encouraging the organization of village banks on the principles of co-operative credit explained by Mr. Nicholson . . . . is worthy of serious consideration."† In June 1901 the matter was reported on by a Committee appointed by the Government of India. Some further discussion followed, and finally in 1904 the Co-operative Credit Societies Act (X of 1904) was passed.

Experiments in the Panjab.

656. In 1898, before there was any public discussion of the subject in this province, one or two small rural banks had been started in the Multan district under the auspices of its Settlement Officer, Mr. MacLagan. Soon after Captain Crosthwaite, who had been Mr. MacLagan's Assistant in Multan, on becoming Settlement Officer of Dera' Ismail Khan, induced the landowners of several villages now belonging to the Mianwali district to form associations of the same sort. It is still more interesting to note that six years earlier, at the very time when the Madras Government entrusted Mr. Nicholson with his mission of enquiry, a Rajput village headman of Panjavar in the Hoshiarpur district, who had never heard of Raiffeisen, was organizing a co-operative credit union on very sound principles.

Mr. MacLagan's account of rural banks in Multan.

657. The following extracts are taken from a *résumé* of Mr. MacLagan's evidence annexed to the report of the Committee mentioned in the last paragraph, and from an account of the Panjavar Association given in 1901 by the late Mr. A. Anderson, Commissioner of Jalandhar:—

"The first Association which was started (among the Pannu tribe) failed to take shape owing mainly to difficulties with the *banias*; but

\* Despatch No. 95, dated 23rd October 1884.

† See Panjab Government, Revenue Proceedings, Nos. 1—3, of January 1901. The very able criticism to which the Madras Board of Revenue subjected Mr. Nicholson's proposals should be read by every one who wishes to see rural banks established. It is a condition of success to understand the strength of the opposing position.

two others, one among the Nuns and one among the Saiyyids, seemed to have taken root. The former had in 1899 57 members and the latter 37. In both cases the members were all proprietors belonging to the same Muhammadan tribe. About half a dozen of them were well off, the rest were poor and in debt. The poorer brethren were, however, willingly admitted and without any outside pressure being brought to bear. So far as the richer men were concerned, the Association no doubt rested to a large extent on philanthropy, though such Associations would of course give them influence in their villages. . . . . The members of both Associations were all Muhammadans, but they appeared to have no objection to lending on interest, provided that the interest was credited to the common fund. The system on which the Associations were worked was as follows. The Association was managed by a *panchayat* elected when the Association was first started and followed generally some rules drawn up by himself and Captain Crosthwaite. The members subscribed after each harvest a certain fraction of their produce, the proportion which each man was to contribute being fixed by the Association. The crops from which subscriptions were collected were as a rule wheat, rice, indigo, and barley, but if in any year the harvest was a failure, no collections were made in that year. The usual proportion fixed was one seer for each maund of produce. Practically the portion subscribed by each member was  $2\frac{1}{2}$  per cent. of crops which did well. In 1899—a famine year—no subscriptions were taken. The grain subscribed was collected and sold as opportunity occurred. Of the proceeds, part was put in the Post Office Savings Bank and part was given out to poorer members on loans. The rate of interest charged was one seer for each rupee lent. But as a matter of fact loans had only been made in 1898 and up to date the operations of the Associations had mainly been directed to the accumulation of capital, with the avowed object (among others) of redeeming land belonging to the tribe. One of the Associations had already accumulated capital to the extent of Rs. 2,000. It was however proposed to again make loans after the present harvest. There was a certain amount of slackness in the working, and delay in the payment of subscriptions and in the recovery of the loans, but so far no difficulty had arisen from defaulters. If any such difficulty did arise, the influence of the *panchayat* would probably suffice to secure the recovery of the loan without appeal to the courts. They would probably proceed themselves to take the amount of grain due from the defaulters' heap. Accounts were kept, but there was no regular audit. The *tahsildar*, however, made general enquiries from time to time to see that matters were going on all right. Mr. MacLagan stated that in his opinion the results so far were distinctly encouraging."

658. "This association is based on an agreement entered into in 1892 by the proprietors of Village Panjavar in the Una *tahsil*, by which they entrusted the management of the common land of the village to six of their number for a term of 30 years. The appointment is honorary, no remuneration whatsoever being allowed. Vacancies are filled by the votes of the proprietors, each having only one vote, whatever be the extent of his individual share. This Executive Committee is invested with power—

Mr. A. Anderson's account of the Panjavar Association.

- a) to grant leases of the common land,



(b) to keep accounts of receipts and disbursements, to be audited half-yearly and submitted to a meeting of the general body of proprietors,

(c) to invest income—

- (1) in the purchase of land;
- (2) in the improvement of the common land;
- (3) in acquiring the mortgage rights over land in the village which has been mortgaged;
- (4) in loans at reasonable rates of interest—8 per cent. is considered reasonable.

The agreement provides for the partition of the common property at the expiry of the 30 years, but implies that there must be at least a majority in favour of dissolution; no division of profits is allowed; the whole income is to accumulate for 30 years. Rules of business are laid down, providing for the institution of civil suits, custody of cash and of grain, audit of accounts, powers of the committee, vacation of office by members, and the appointment of successors.

The objects of the association as explained to me by a co-sharer were :—

- (a) to prevent disunion among the proprietors;
- (b) to enable each proprietor to have his proper share of the income from common land without resorting to its partition;
- (c) to improve the common land by planting trees, conservation of the waste, and so on;
- (d) to prevent strangers from acquiring lands in the village either by sale or by mortgage;
- (e) to relieve proprietors and tenants by lending money at 8 per cent. per annum.

In addition to these objects which are detailed in the agreement, the committee has also, with the approval of the people, charged itself with the duty of regulating ceremonial expenditure, of settling disputes in the village, of giving advice and warning in regard to conduct, and of protecting the non-proprietary body against money-lenders and even against proprietors.

\* \* \* \* \*

My latest information, which is about a year-old, shows the following state of the accounts :—

	Rs.
(1) Deposited with a banker	... 1,500
(2) Loans secured on land	... 3,680
(3) Unsecured loans	... 2,140
(4) Arrears of rent, &c., &c.	... 1,027
(5) Cash with the Treasurer of the Association	... 5
Total	... 8,352

There is now only one mortgage held by a stranger, and it is only the delay in completing some legal formalities that prevents the committee from redeeming the mortgage.

\* \* \* \* \*

The Panjavar Association is a co-operative land bank with the common land as the capital. It complies in almost every respect with the Raiffeisen Bank :—It is purely local ; there is joint responsibility and unlimited liability ; there are members' shares, but they are ignored ; no dividends are paid, nor are salaries allowed, and all profits go to the reserve ; the object is the economic improvement of the agricultural community, and the association has a tendency towards the moral improvement of the members. The only contribution made by the members of Raiffeisen Banks is a reputation for honesty and fair dealing ; but in Panjavar the members contributed their shares in the common land which, though of little value to individuals, formed a sufficient capital and obviated the necessity of borrowing. This is the special feature of the association, and suggests a basis on which societies may be formed in other villages. . . . .”

659. It remains to notice the principal questions which arise in connection with rural banks. Experience alone will show what the true answer to some of these questions is, and Act X of 1904 wisely recognises this and leaves much to be dealt with by rules and bye-laws.\* These problems may be divided into two groups,—the first concerned with the conditions essential to the successful working of such societies, and the latter with their relations to the State. Under the former head the chief matters are the conditions of membership, the extent of the liability which the members should undertake, the source from which the capital of the association should be derived, the objects for which it should be used, and the use to be made of any profits that may accrue. Questions connected with rural banks.

660. It is essential that all the partners in a rural bank should be known to the Managing Committee ; it is desirable that they all should be known the one to the other. Hence membership must be confined to persons living in the same neighbourhood, and preferably to those dwelling in the same village. It is well that all should belong to the same social class, and, where circumstances permit, to the same tribe. The influences which promote fair dealing between man and man will in that case be felt in their full strength.† Each partner should have more or less of the one valuable security which the ordinary peasant possesses. In other words, the society should be confined to landowners, or to landowners and occupancy tenants. A perfect association would be one where all the landowners of a village were of one tribe, and which embraced them all. The income derived from the common lands and the other receipts which form part of the village *malba* would then naturally be included in the bank's capital. But of course some Membership should be confined to persons having an interest in land, living in same locality, and belonging to same tribe or social class.

\* See Section 27, and paragraphs 10 and 25, of Government of India, Revenue and Agricultural Department, Resolution No. 1—63-3, dated 29th April 1904. In special cases the Local Government may exempt a society from any of the provisions of the Act (Section 29)

† Section 3. See also paragraphs 13-14 of Government of India, Revenue and Agricultural Department, Resolution No. 1—63-3, dated 29th April 1904.



proprietors may choose to stand aloof, and the members must have power to exclude any one of doubtful character.\* The need of exercising such a power would, however, rarely arise in a society organised on tribal lines. To prevent jobbery or the working of the society in the interests of a powerful clique or individual, each member has only one vote.†

Liability of members should be joint and unlimited.

661. The liability of the members should be joint, and it should be unlimited.‡ In other words, they should be liable for any money the bank may borrow from the State or from private individuals to the same extent as the members of a village community are in law liable for the payment of the land revenue. The credit of a society of owners of land organised on this basis is bound to be excellent, if most of the land is unencumbered.

It is best that all capital should be supplied by the members.

662. But it is far better that the capital should be supplied by the members themselves.§ When it is borrowed, the lesson in thrift, which is the greatest boon which these banks can confer on a people, is in great measure lost. Moreover, men who are handling their own money will be far more careful in the lending of it and far more keen about its recovery than men who are dealing with borrowed capital. The *malba*, or the share of it belonging to the members of the society, supplemented by contributions, mostly in grain—collected at harvest time, may well form the capital of a rural bank. The peasants of the Panjab are perfectly familiar with the setting aside of small shares of each crop for special purposes. It may be urged that rural banks, which depend on the resources of their own members, can only carry on business on a petty scale, and that failing outside help few will at present be founded. The former is at first an advantage considering the novelty of the business and the prevailing lack of education. The latter need not perhaps trouble us much. Even with the advantage of Western experience it is folly to hope to do in the East in nine or ten years what it has taken half a century to do in Europe.|| The time may come when the money of village *sahukars* and of the State may with advantage to all parties reach the land-owners through the channel of well-established village banks.¶

Object of loans.

663. There is a "good deal of difference of opinion" as to the objects for which loans should be granted. Some think they should be limited to those for which *takavi* is now given, others that they should include all those for which an ordinary peasant usually needs advances, two of the chief items of course being the payment of the land revenue and expenditure on marriages. Unless the bank's field of operations extends sooner or later as far as this, it cannot make its

\* Section 4 (b). See also paragraph 15 of Government of India, Revenue and Agricultural Department, Resolution No. 1-63-3, dated 29th April 1904.

† Section 13 (1).

‡ Section (a).

§ Section 9.

|| See however paragraph 667.

¶ Section 9 provides that "a society . . . may borrow from persons who are not members only to such extent and under such conditions as may be provided by its bye-laws or by rules made under the Act." See also as to borrowing from private persons paragraph 17 of Government of India, Revenue and Agricultural Department, Resolution No. 1-63-3, dated 29th April 1904.

members independent of the professional money-lender.\* A society which advanced money to its own members for marriage expenses would probably exercise a strong influence in limiting their amount. A society must not take ornaments or other moveable property in pawn without the permission of the Registrar (see paragraph 670), which may take the form of a general order.† The releasing of land from mortgage would appear to be one of the most beneficial objects on which a rural bank could employ its funds. But the Local Government may forbid or restrict loans on the security of immoveable property.‡

664. For a considerable time at least after the foundation of a bank there should be no division among the partners of any small profits that may arise. They should be credited to the common fund which forms the working capital.§ The object of the society is not to make money, but to save its members from the necessity of borrowing on ruinous terms. If profits accrue, the best use to which they can be put is the reduction of the rate of interest. A proviso to Section 8 of the Act provides that when the "reserve fund has attained such proportion to the total of the liabilities of the society, and when the interest on loans to members has been reduced to such rates as may be determined by the bye-laws or rules . . . any further profits of the society not exceeding three-fourths of the total annual profits, may be distributed to members by way of bonus." Profits should be credited to the common fund.

665. Turning to the relations of the State to the banks it may be asked—should it let them alone, treating them like any other trading associations? or should it actively assist and control them? Relation of State to rural banks.

It follows from what has been said above that the last thing to wish for is that the banks should become in any sense State institutions. But it does not follow that the Government and its officers have no part to play in the upbuilding of co-operative credit. The peasants of Germany and Italy would never have founded their banks without the advice and encouragement of philanthropists who did not spring from their ranks. The officers of Government may do in some measure in India what philanthropists have done in Europe. They can give counsel and encouragement without taking any part, direct or indirect, in the actual management of rural banks.

666. But it has been felt that in India the State must assume a much more active role than this, that it should register all rural banks which satisfy certain conditions,|| should bestow certain privileges upon them, should audit their accounts,\*\* and should compulsorily wind up associations which are badly managed.†† Proposals for control by State agency.

\* The Act wisely refrains from defining the objects for which loans may be made (See Section 10 and compare Section 27 (f)).

† Section 10 (2). See also paragraph 20 of Government of India, Revenue and Agricultural Department, Resolution No. 1—63-3, dated 29th April 1904.

‡ Section 10 (3). See also paragraph 21 of the above Resolution.

§ Section 8.

|| Section 6 (2).

¶ Sections 15, 19, 20, 25.

\*\* Section 21.

BUEA †† Sections 23, 24.



loans to  
banks.

667. A regards privileges, the most important suggestions made are that Government should advance money to rural banks to enable them to start business, and should provide by law a summary procedure for the recovery of their loans. The extent to which the State is prepared at the outset to give financial help to rural banks is stated in the 26th paragraph of Government of India, Revenue and Agricultural Department, Resolution No. 1-63-3, dated 29th April 1904. Should the banks take root, they may hereafter become an excellent medium for distributing *takavi*, and the State could afford to lend them money at a lower rate than it demands from individuals.

Special facilities for recovery of loans made by rural banks.

668. Experience may very probably show that special facilities for the recovery of debts due to rural banks are unnecessary. It is unlikely that a properly-managed institution would have many bad debts, and to prop up those which work badly can only do harm. The Act gives the society priority over other creditors to enforce its claim—

(a) upon the crops of a member within a year from the date when seed or manure was advanced or money for purchasing them was lent, and

(b) upon cattle or agricultural implements purchased in whole or in part with money lent by the society.

But this lien is subject to any prior claim of Government in respect of land revenue or any sums recoverable as arrears of land revenue, and of a landlord in respect of rent.\*

Exemption of shares and deposits from attachment.

669. In order to stimulate thrift, the shares or interest of members are exempted from attachment or sale under any decree or order of a Court.†

The Registrar.

670. A special officer has been appointed as provincial Registrar. The Registrar "should be selected for his special qualifications, and should, for the first few years at least, be constantly visiting the societies, and watching their progress, rather as a friendly adviser than as an inspecting officer. By studying developments under various conditions he will gain experience which will render him an invaluable adviser; he will know what has succeeded here and what has failed there; he will be in a position to avoid the repetition of mistakes, to point out defects, and their remedies, and to extend to one part of the country methods which have proved successful in another . . . . Gradually as experience is gained and the societies are able to stand alone, the fostering care of the Registrar will be less required, until his duties will become purely official."‡

Prospects of success.

671. It may be asked whether, admitting the great benefits that rural banks would confer on the peasantry, their successful establishment is at all likely. Is not this institution an exotic, which,

\* Section 19. For the society's lien on a member's shares,— see Section 20.

† Section 15. See however in this connection Section 20 as to the lien of the society on members, shares in respect of loans to members.

‡ Paragraph 16 of Government of India, Revenue and Agricultural Department, Resolution No. 1-63-3, dated 29th April 1904.

like many another that we have tried to introduce, will not take root in an alien soil? Ignorance and apathy on the one hand and a violent spirit of faction on the other are very serious obstacles. In a matter of this sort a few men of more than usual energy and rather better worldly position than their neighbours must lead and the rest follow. Mr. Anderson has pointed out that it was the willingness of Rajputs to accept such a leader that made the Panjavar Society possible. The strongest and in some respects finest tribes, the Hindu and Sikh Jats, are quarrelsome and have that envious dislike of conspicuous position or merit which the democratic spirit engenders. But on the other hand in some respects the conditions likely to make rural banks a success exist more strongly here than in Europe. Indeed 30 or 40 years ago a strong village community in the east of the province with its tribal bond scarcely broken by the intrusion of strangers, its undivided common, and its large *malba*, presented from some points of view an ideal field in which to plant a rural bank. Disintegrating influences have done much to change all this, but the power of cohesion is not lost beyond recovery. The difficulties are great, but they do not seem to be insurmountable. And, should they be overcome, one excellent indirect result may be to build up again in a new form the village brotherhood which a too complex system of law and administration has done so much to shatter.

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## CHAPTER XX.

## THE COURT OF WARDS.

Object of a  
Court of  
Wards.

672. The institution of a Court of Wards to take care of the persons and property of people of good social position, who, owing to minority, sex, mental incapacity, or for other reasons, are unfit to manage their own affairs, is an act at once of charity and of policy.\* In the case of children, of women, and of persons of unsound mind, the former motive would suffice. An untimely death is the natural end of the lives led by too many men of good family in the Panjab. Having lived just long enough to load their patrimony with debt, they hand it on heavily encumbered to young widows or helpless children. Capacity for business is no more confined to one sex in India than elsewhere. But the secluded life led by women of rank, and the influences to which they are exposed after the death of their husbands, generally make them unfit to manage with success family property either on their own behalf or on that of their minor sons. The intervention of the Court of Wards is, however, only necessary in the case of families of some importance. The Guardian and Wards Act, VIII of 1890, provides sufficiently for others. It allows the District Judge, if no suitable private guardian can be found, to appoint the Deputy Commissioner to fill that office.† When the family, though of social importance, is engaged in trade or in any occupation which a Government official cannot carry on, it will rarely be of advantage to the minor to be brought under the Court of Wards.

In case of  
vicious or  
spendthrift  
landholders  
interference  
confined to  
families of  
political or  
social impor-  
tance.

673. The considerations which lead the State to interfere in the case of landholders of vicious or spendthrift habits are almost wholly political. The law does not contemplate the putting of any restraint on a man's power of dissipating his property by vicious courses or the extravagant pursuit of pleasure, unless he belongs to a family whose political or social importance it is a matter of public interest to preserve. In this respect it does not go as far as the French law, which permits the relations of any prodigal spendthrift to apply for the appointment of a judicial adviser, without whose "assistance" he is

\* The duty of Government in this matter has been acknowledged from the early days of our Indian Administration. See Bengal Regulation, X of 1793.

† Sections 7 and 18 of Act VIII of 1890. The Collector may decline [Section 17 (5)], and ought to do so, if the minor is a "landholder" within the meaning of Section 3 (b) of the Court of Wards Act (II of 1903) and, his land is "land" as defined by Section 2 (3) of the Panjab Alienation of Land Act (XIII of 1900). Where the appointment of a Government official as guardian is desirable, and the proposed ward is a "landholder" action ought to be taken under the Court of Wards Act (see also Section 7 (2) of the Court of Wards Act). In other cases the appointment of officials as guardians under Act VIII of 1890 is only proper where there are no private persons available for the duty, or where private guardians have betrayed, or are known to be likely to betray, their trust.

powerless to borrow money, to sell or mortgage his immoveable property, or to bring a suit in court.\* Even in the case of great families it must be remembered that it is against the declared policy of Government to extricate them from debt by means of loans of public money. In such cases Deputy Commissioners must not formally discuss with the persons concerned applications for the intervention of the Court of Wards or initiate proceedings without first obtaining the sanction of the Commissioner. And if ultimate resort to a Government loan seems probable, reference should be made to Government for a decision of the question whether the political or other considerations are strong enough to warrant an exception being made to its general rule or policy.

674. Until very lately the law concerning the Court of Wards was contained in five sections of the Panjab Laws Act, IV of 1872,† supplemented as regards the education of male wards by Act XXXVI of 1854. In some respects it was very imperfect. It made no provision to enable Government to intervene to save the estates of spendthrift landowners except at their own request; it expressly prevented it from dealing with joint property unless all the shareholders could legally be made wards; and, while it forbade wards to alienate or charge their property in any way, it did not restrict their legal capacity to contract debts. By a curious oversight persons who, under the general law, were capable of making a contract or loan, were not deprived of that right by becoming Wards of Court. Imperfection of law regarding Court of Wards contained in Sections 34-38 of Act IV of 1872.

675. In 1895 the consideration of the measures to be taken to rescue the rural population from the burden of debt was seriously undertaken by the Government of India. In this province the result as regards the mass of the landowners was the passing of the Panjab Alienation of Land Act, XIII of 1900.‡ To meet the case of families of position that enactment has been supplemented by a new and somewhat elaborate Court of Wards Act (Panjab Act No. II of 1903). The remainder of this chapter will be devoted to a short account of the present law followed by a few remarks on some particular questions which arise in connection with the care of wards and the management of their property. Origin of Panjab Act No. II of 1903.

676. By Act No. II of 1903, the Financial Commissioner is declared to be the Court of Wards for the whole province. But he can exercise all or any of his powers through Commissioners or Deputy Commissioners, to whom also they can be delegated by rules under the Act, or by general or special orders. || Financial Commissioner Court of Wards for Panjab.

677. To be made a ward a person must be a landholder, i. e., he must possess an interest in land as proprietor, assignee of the Government revenue, lessee of waste land, or otherwise.§ Only landholders can be made wards.

\* The power which reversioners possess under the Customary Law of the Panjab to sue for the cancellation of the transfers of land made without necessity is a restraint of the same kind (see paragraphs 15 and (8)).

† As amended by Act XII of 1878.

‡ See paragraphs 26 *et seq.* of this Manual.

§ Section 4. For powers delegated to Deputy Commissioners and Commissioners (see the rules under Section 4 (3), reproduced in Part II of Revenue Circular No. 57).

|| Section 3 (b).



Classes of  
landholders  
who may be  
made wards  
by order of  
Financial  
Commissioner

678. The Court may of its own authority declare the following classes of landholders to be its wards:—

- (a) minors, that is to say, persons below the age of eighteen.\* A person who has been made a ward while still below that age, does not reach his majority till he is twentyone.† The Deputy Commissioner reports the cases of all minors who in his opinion ought to be made wards, and likewise cases in which he himself has been appointed guardian of a minor under the provision of Section 18 of the Guardian and Wards Act, VIII of 1890.‡ The object of the report in the latter case is to enable the Financial Commissioner to decide whether the estate should not be brought under the Court of Wards;
- (b) persons adjudged by a court acting under Section 2 of Act XXXV of 1858 to be of unsound mind and incapable of managing their affairs. § The Deputy Commissioner may apply to the District Judge to institute the necessary enquiry. ||

Classes of  
landholders  
who may be  
made wards  
by order of  
Local Gov-  
ernment.

679. The Local Government may order the Court of Wards to take charge of the property of the following classes of landholders if it considers them incapable of managing their own affairs—

- (a) females,
- (b) persons suffering from any physical or mental defect or infirmity,
- (c) persons who themselves apply to be made wards,
- (d) persons who have been convicted of any non-bailable offence, and are of vicious character,
- (e) persons whose habits of wasteful extravagance are likely to dissipate their property. ¶

The court may at its discretion take charge of their persons also. In the case of the third class action can only be taken, if it is considered "expedient in the public interest;" \*\* in the case of the last two classes it is necessary that the landholder shall belong to "a family of political or social importance" and that the Local Government shall be satisfied that it is desirable "on grounds of public policy or general interest" to interfere.††

Enquiry by  
Deputy Com-  
missioner.

680. A proposal to make any one a Ward of Court naturally originates with the Deputy Commissioner of the district in which the whole or the bulk of the property concerned is situated. The 3rd chapter of the Act gives him the necessary powers for making an

\* Section 3 (c) read with Section 3 of the Indian Majority Act, IX of 1875.

† Section 3 of Act IX of 1875, as amended by Section 52 of Act VIII of 1890.

‡ Section 7 (2).

§ Section 6.

|| Section 11 (4). See also Section 3 of Act XXXV of 1858.

¶ Section 5.

\*\* Section 5 (1).

†† Proviso to Section 5 (2).

enquiry, and for the protection of the person and property of the proposed ward until sanction is received.

681. A minor or an insane person may be released from wardship by the court at any time. The concurrence of the District Judge is, however, required in any case in which the Deputy Commissioner was appointed guardian of the minor before he became a Ward of Court.\* On releasing a ward who is still a minor the court may give him a guardian, who will have the same rights and duties and be subject to the same disabilities as a guardian appointed by the District Judge under Act VIII of 1890. † Release from wardship.

The property of a landholder who has been made a ward under the orders of the Local Government cannot be released without its order; but the court may relinquish charge of his person at its pleasure. ‡

682. The orders by which the Court of Wards assumes and relinquishes charge of the person or property of a landholder are of orders published in the Government Gazette. § Publication of orders.

683. When the landholder declared to be a ward is joint owner of property with others the court may take charge of the whole property. ¶ But, as will be shown hereafter, its power of dealing with such property is subject to restrictions. Again, if a person who has ceased to be subject to its jurisdiction owns property jointly with another person who is still a ward, the court may retain the whole under its care. ¶ This is a very useful provision. It obviates the difficulty which arose under the old law when several brothers were wards and one of them was released from tutelage on attaining his majority. When the court manages property not belonging to a ward it is bound to make over the surplus income to its owner.\*\* Provisions to meet case of joint owners.

684. As already indicated the superintendence of the court may extend only to the property of the ward, or to both his property and his person. †† Wardship may extend only to property.

685. A ward cannot purchase on credit, borrow money, or transfer his property by lease, mortgage, sale, or gift. ††† He cannot make a will, adopt an heir, or give permission to adopt. §§ He can only sue under the authority of the court, ¶¶ and he cannot be sued without the court being made a defendant ¶¶, and without two month's notice having previously been given to the Deputy Commissioner.\*\*\* Disabilities of ward.

\* Section 44.

† Section 47.

‡ Section 44.

§ Sections 9 and 50.

¶ Section 8.

¶¶ Section 46.

\*\* Sections 8 and 46.

†† Section 6 and 7.

††† Section 15 (a).

§§ Section 15 (b).

¶¶ Section 20 (1).

¶¶¶ Section 20 (2).

\*\*\* Section 19.



Disabilities  
extending  
beyond  
release.

686. A ward's disabilities do not in all cases come wholly to an end on his release. A landholder, who was made a ward at his own request or as a consequence of his extravagant habits cannot, after his release from the superintendence of the court, make any transfer of his property for a term extending beyond his own life.\* And debts and other pecuniary obligations incurred by a ward while under tutelage cannot be ratified by any subsequent action on his part.†

Powers of  
court as  
regards  
ward's  
property.

687. All property which the ward possesses at the date of the order by which the court assumes charge, and all property which the ward may subsequently acquire vests in the court, which, however, has discretion as to taking the superintendence of any property of the latter class not received by inheritance ‡ The court has for the time being all the powers of a landowner. It can even sell the whole of the property, if it thinks that to do so would be to the ward's advantage.§ Of course permanent alienation of any part of the ward's landed property is usually to be avoided. But the sale of outlying or isolated portions of an estate as part of a scheme for the liquidation of debt may be sound policy. The court cannot sell or mortgage the share of a joint proprietor, who is not himself a ward, or grant a lease of it for more than twenty years.¶ A pension or assignment of land revenue belonging to a ward cannot be mortgaged except for the purpose of raising a loan for his benefit, and then only with the consent of the Local Government.|| In this connection it must be borne in mind that *jagirs* notified under the Panjab Descent of *Jagirs* Act (IV of 1900), cannot be attached and are therefore of no value as legal security.

Management  
may continue  
after death or  
release of  
ward.

688. The cessation of legal disability, or even the death of a ward, does not in every case free his property from management. If still encumbered with debt it may, with the sanction of the Local Government, be kept under the charge of the court till all the debts have been discharged.\*\*

Powers of  
court over  
ward's per-  
son.

689. When the court has taken charge of the person of a ward it can fix his place of residence, and in the case of a minor male ward, has complete control of his education.†† This control has been delegated to Deputy Commissioners.‡‡ As regards female minors, although the Court of Wards is not empowered by law to direct their education, the Deputy Commissioner should, where possible, satisfy himself that suitable arrangements have been made.

Ascertain-  
ment of  
debts.

690. To free an estate from a load of debt is too often one of the chief tasks of the Court of Wards. The first step is to ascertain

\* Section 16 (1).

† Section 16 (2).

‡ Section 13.

§ Section 17 (4).

¶ Section 8.

|| Section 17 (2).

\*\* Section 45.

†† Section 24.

‡‡ See paragraph 696.

exactly what the liabilities are. The 6th chapter of the Act provides a means of doing this promptly and effectually. As soon as the court has taken charge the Deputy Commissioner publishes a notice calling on all creditors to present within six months their claims with the documents on which they rely for their establishment. \* Subject to the provisions of Sections 7 and 13 of the Indian Limitation Act, XV of 1877, claims not filed in time without reasonable excuse, of the sufficiency of which the Deputy Commissioner is judge, are *ipso facto* extinguished. † Suits and executions against the ward's estate pending at the time are stayed until the plaintiff or the decree holder files a certificate that the claim has been duly notified. ‡

691. It is the duty of the Deputy Commissioner to examine into the truth of each claim, and to determine the amount due. § He cannot of course disallow any sum already decreed and still unpaid. || He has further to decide in cases in which immediate payment is impossible the rate of interest, if any, to be allowed in future, ¶ and he may, if he thinks fit, rank the debts in the order in which they are to be paid, and fix a date for the discharge of each. \*\* Debtors will often accept a composition favourable to the ward if, by doing so, they can procure a prompt settlement of accounts.

Deputy Commissioner must determine amount due, and may rank the debts.

692. The Deputy Commissioner's decisions are not subject to appeal, but they may be revised by the Court of Wards. †† No civil suit lies to set aside the order of a Deputy Commissioner ranking debts or fixing dates for their discharge. But, if he has wholly rejected a claim or reduced its amount, the aggrieved party may bring a civil action, in which the Court of Wards will be a defendant, to impeach the correctness of the decision. ‡‡ In such a suit no document which the plaintiff failed to produce before the Deputy Commissioner, though it was in his power to do so, can be received in evidence. § §

Remedies open to creditor.

693. The 7th chapter of the Act provides for the appointment of tutors, guardians, and managers, and explains their duties and obligations. Subject to the control of the court a guardian has charge of the person of a ward, and a manager of his property. |||| It is often well to consult the friends or relations of a ward as to the choice of a manager, since a fit private person may sometimes be available. In the case of large estates, however, where a specially competent manager is required, a Government servant should generally be selected. There is no reason why in suitable cases the two offices of guardian and manager should

Appointment of tutors, guardians, and managers.

\* Sections 26 and 27.

† Section 29 (2).

‡ Section 31 (2). Compare Section 31 (3) barring fresh proceedings in execution.

§ Section 28.

|| Section 31 (a).

¶ Section 28.

\*\* Section 32 (1).

†† Section 33.

‡‡ Section 32.

§ § Section 30.

|||| Sections 35 and 38.



not be united in a single person. A guardian can only be appointed for the care of a ward, who is a minor, or an unmarried female, or insane, or suffering from some physical or mental infirmity.\* The next heir of a ward or a person immediately interested in outliving him cannot be his guardian.† If no guardian or manager is appointed by the Court, their powers are exercised by the Deputy Commissioner.

Preliminary  
Report and  
Scheme of  
Management.

694. When a Deputy Commissioner has made up his mind that an estate should be brought under the Court of Wards he submits his proposals in a preliminary report, which is followed as soon as possible by a detailed scheme of management. Orders on the subject will be found in Revenue Circular No. 57.

Court of  
Wards rate.

695. A rate is levied on the income of estates managed by the Court of Wards under the authority of Section 3 of the Government Management of Private Estates Act (X of 1892). The income is intended to cover the cost of all ordinary Government establishments in so far as these have to devote part of their time to Court of Wards, business. This of course does not include any staff recruited solely for the management of any estate or group of estates. Such a staff is paid out of the income of the estate or estates which employ it. The cess also covers the share of any contingent expenditure of Government offices, which would otherwise be debitable to the Court of Wards. For the present the rate has been fixed as follows :—

- (a) on gross income up to Rs. 5,000 per annum, 5 per cent. ;
- (b) on the excess up to Rs. 10,000 per annum, 2 per cent. ;
- (c) on the excess over Rs. 10,000 per annum, 1 per cent. ‡

Education of  
wards.

696. The education of wards of good family has always been a difficult problem. There can be no question in these days as to the kind of knowledge to be imparted. Men of family, if they are to maintain their position, must share in that familiarity with Western ideas and modes of thought, which is becoming the common property of all educated Indians. But a young Indian leaving conservative home surroundings to receive such an education is very much in the position of a young Englishman in the sixteenth century faring to Rome or Padua to reap the fruits of the renaissance. We know what the result was in the case of our own countrymen,§ and we need not wonder if similar disappointments often occur in modern India. Yet the risks of home education are greater, and, though a boy's relatives commonly urge its advantages, there can in most cases be no doubt that their wishes should be overruled. At best an Eastern home for a fatherless boy of good position and large means is not a school for the development of the manly virtues; at worst it means an *entourage* of women trying to keep him in the *zanana*, and of pimps and flatterers outside. The general rule that has been laid down therefore is that, as far as possible, every ward of an age for other than primary

\* Section 35.

† Section 36.

‡ Punjab Government Notification No. 56, dated 17th January 1893.

§ "*Inglese Italianato e diavolo incarnato.*"

education shall, if he is the son or near relative of a hereditary *darbari*, be sent to the Chiefs' College at Lahore. If the estate is too poor to bear the expense, or if there are any other reasons against its adoption, the circumstances should be reported to the Financial Commissioner when the ward has reached the age of 8 years, the lowest age at which boys are received at the College. The annual expenses of education at the College run to some Rs. 1,000 or Rs. 1,200, but it is often possible to arrange that the boy shall hold a scholarship. The fees paid by Wards of Court have now been assimilated to those paid by ordinary pupils at the College. When education at the Chiefs' College is not practicable and a private tutor is not employed, a ward should be sent to one of the Government schools. For the reasons stated above private tuition is not usually to be recommended, but the weak health of a ward or other special circumstances sometimes leave no choice in the matter.

697. The accumulation of large cash balances or of securities readily convertible into cash merely provides a temptation to a ward, when he is released from the control of the Court, to squander assets upon which he can readily lay his hand. The first and most desirable form of investment is the improvement of the ward's own estate by the digging of wells or tanks, the making of embankments or drains, and whatever will increase the value of the land, the security of the crops and the prosperity of the tenantry. The Government of India have especially advised the liberal supply of advances to cultivators upon the ward's estate in the shape of either money, seed, or cattle, on the security of long leases and conditional on the payment of enhanced rent.\* In fact the expenditure should be on objects on which a wealthy and thoroughly intelligent landowner living in the neighbourhood would be ready to spend money in the case of his own estate.

Investments.  
in improve-  
ments.

698. Following the improvement of a ward's own estate, come investments in the purchase or taking on mortgage of lands, which should, as a rule, be situated in reasonable proximity to the main estate. It will often be found that the difficulties involved in the management of property situated at a distance from the managing centre, *e.g.*, in one of the canal colonies, are such as to render this form of investment inadvisable but where these difficulties can be obviated, and auctions are advertised, proposals may be submitted for the purchase at auction of Government lands in the colonies. Where the lands to be acquired are not the property of Government, it is essential to see that the vendor's or mortgagor's title is unimpeachable. Under Section 18 (1) of the Act all deeds, contracts, or other instruments executed by the Court of Wards, must be executed by the Financial Commissioner in his own name. This rule holds good even in the case of loan or other transactions between one ward's estate and another.

In purchase  
or mortgage  
of lands.

699. The third form of investment is the purchase of Government promissory notes, but this is only intended to be a convenient

In purchase of  
Government  
paper.

\* Government of India. Revenue and Agricultural Department, Resolution No. 2771-79, date 28th December 1891.