in part paid into the British treasuries, and in part enjoyed by assignees holding on a hereditary title, subject to the operation of a not very well defined law of lapse.

58. When the Sikh war broke out, the Governor General, by proclamation dated the 13th December 1845, declared "the possessions of Mahárájah Dalíp Singh on the left, or British, bank of the Satlaj, confiscated and annexed to the British territories;" while he undertook to "respect the existing rights of all jágírdárs, zamíndárs and tenants in their possessions, who, by the course they then pursued, showed themselves faithful to the British Government." At the same time he called on "the chiefs in the protected territories to co-operate cordially with the British Government for the punishment of the common enemy and for the maintenance of order," promising reward to those who showed alacrity and fidelity in the discharge of this duty, and warning those who took a contrary course that they would be treated as enemies of the British Government, and would be punished accordingly. Some of the Cis-Satlaj chiefs having joined the Sikh army, or otherwise manifested their hostility, their territories were confiscated and brought under British administration shortly after the war broke out; and the others having, with a few exceptions, failed to furnish the assistance required of them, and their contingents having shown themselves disaffected or useless, it was determined, after the close of the war, with certain specified exceptions, to deprive them of all authority, and reduce them to the position of British subjects. The customs and transit duties previously levied by them were abolished;* and while they were allowed to retain the land revenue they had previously enjoyed, the contingents they had been liable to furnish were ordered to be commuted into a money payment of Rs. 16 per month for each horseman and Rs. 6 for each footman.† At the same time it was determined that advantage should be taken of the opportunity to lay down authoritatively the rules of succession to their estates, which had thus been placed upon the footing of hereditary *jáyírs*. It was added that "these rules should be

Proclamation of 13th December 1845, and extension of British administration.

No. 465 dated 17th Nov. 1846, from Secretary to Government of India, to Agent to the Governor General, N. W. Frontier.

* In two cases, those of the Nawáb of Kunjpúrah and the Mir of Kotáha, compensation was paid,—Aitchison's Treaties.

† These rates were also applied to determine the commutation payable by the jágírdárs, formerly subjects of Lahore, who were brought under the British Government in 1845 and 1846. They were, however, found to press very unequally, and the rates of two anas per rupee of the revenue assessed upon the jágírdárs' lands when included in the protected territory, and four anas per rupee when included in the former Lahore territory, were therefore substituted by Government of India's letter No. 1407 dated 7th May 1852, to the Board of Administration.

prepared with the utmost care and after the strictest enquiries as to right and usage."

Enquiry into the validity of pattidári tenures owing to the promulgation of the rules of succession of 1851.

No. 316 dated 26th February 1851, to Commissioner Cis-Sattlaj States
No. 963 A dated 14th June 1851 to Settlement Officers Cis-Satlaj States.

59. Rules of succession for *pattidári*, or horsemen's shares, were ultimately laid down in Government of India's No. 461 dated 12th February 1851, to the Board of Administration (post, para. 69). In communicating these orders, with the instructions of the Board of Administration in regard to them, to the Settlement and District Officers Cis-Satlaj States, the Commissioner Cis-Satlaj States wrote:—

"I conceive that these rules are intended to apply to all cases, past and future, in which the holders of *pattidári* shares may have died without male issue, with the exceptions specified in para. 7 of the Government letter and para. 4 of the Board's letter.

"There are, I believe, numerous shares in the possession of females, whether widows or daughters, in regard to which no orders have ever been passed either by the Agent, Governor General himself, or by his Assistants. In all such cases the female holders must be dispossessed, the share declared escheat, and a provision in money, not exceeding half the value of the share, recommended for sanction.

"It is essential to the application of Rule III that the state of possession in 1808-9, and a genealogical tree of the family tracing the descent of the present incumbents from the parties then in possession, should be ascertained and recorded.

"In the event of any share which has hitherto escaped notice being declared a lapse, a separate proceeding should be drawn up, stating the grounds on which it has been so declared, and a separate misl prepared;..... or, if more convenient, one misl and one proceeding.....in regard to all such shares in one village may suffice, detail being given separately respecting each share in the rubakári." For each village or estate a genealogical tree of the family and the state of possession of shares as it may stand after all enquiries regarding past (concealed) lapses have been brought to a close, and final orders passed, were ordered to be placed on record.

Para. 9.

Nature of the investigations.

60. These instructions, for the guidance of the officers who were to apply the rules regarding succession to *pattidári* shares, were communicated by the Commissioner to the Board of Administration, who, in para. 2 of their letter No. 931 dated 4th

* The latter course was, it is believed, that generally adopted.

September 1851, to the Secretary to the Government of India, stated that they had "acquiesced generally in the instructions issued." The investigations accordingly had for their object the ascertainment of the names of existing holders of *pattidari* shares, the extent of their shares, and the validity of their titles under the prescribed rules.

Disposal of claims to Inâms, or grants of Land Revenue to Village Notables.

61. The 6th of the supplementary rules, issued in the Board's Circular No. 5 of 1850 (para 49 *ante*), related to *inâms* or assignments of land revenue to influential proprietors in villages. Further instructions in regard to the disposal of such claims were issued in their Circular No. 20½ of 1850. It was then laid down that, as a general rule, village headmen should not enjoy both lambardár's fees and *inâm*. But as there were cases in which only one or two influential men in large villages enjoyed *inâm*, while the headmen of the pattís received the lambardár's fees, it was not thought expedient to withdraw it in every case. The following priniciples were, therefore, to be observed by officers in such cases :—

Instructions issued by Board of Administration in 1850. Inâms to influential proprietors.

I.—When an *inâm*, or in other words, a money allowance, has been enjoyed by any proprietor of a village community previous to annexation, it shall be continued and maintained to him for life, subject to good behaviour, and to the following conditions :—

II.—It shall be collected like other village burthens, and may be sued for and recovered in the courts of the district.

III.—It shall not be heritable nor transferable. On the death of the holder it may either be continued to his son, or be conferred on any other proprietor in the village, or be altogether resumed and added to the Revenue Roll of the village, as may appear expedient.

IV.—It shall be considered as the remuneration for service to Government and to the village community, and the holder shall be designated by the title of chaudhri.

V.—It shall be liable to confiscation for gross neglect of duty, or on the holder being convicted of any crime. It shall not be resumed on the ground that he is old or infirm, in which case he may, with the consent of the Deputy Commissioner, nominate his son or other relation to perform the duties.

VI.—Claims to *inâm* shall be investigated and reported on in the form prescribed for other revenue-free tenures; when admitted, they shall be entered in a register.

VII.—Where the amount of *inám* is disputed, or where it has been surreptitiously increased by the holder without the sanction of the ruler of the day, it shall be reduced to such amount as may seem reasonable and just, and the difference shall accrue to the village community. The sanction of the Commissioner shall be necessary for any reduction of the amount which the Deputy Commissioner may, for any reason, propose.

VIII.—The object in view in such grants is to enlist the influence of able and intelligent members of the local community on the side of Government. Their services should be utilized for police and other purposes.

Ináms granted for extension of cultivation, &c.

62. In some cases *ináms* have been granted by former governments as rewards for extending cultivation or for sinking wells. The above rules do not appear to be applicable to such grants, but the 6th of the rules contained in the Board's Circular No. 5 of 1850 would apply.

Information to be given in reporting cases.

63. In Financial Commissioner's Circular No. 22 of 1856 it was directed, by order of the Chief Commissioner, that in reporting *ináms* proposed to be maintained in favor of chaudhrís and lambardárs, if the *inám* be in land, the annual value in cash should always be stated, and, whether it be in cash or in land, the revenue of the village should be shown, with the former revenue, when a reduction had been granted, or the proposed assessment, if it were under settlement, as any reduction would afford just ground for reducing the "*inám.*"

Rules of succession to and lapse of revenue-free assignments granted in perpetuity.

Limitation of the succession

No 2990 dated 27th August 1852, to Board of Administration.

64. In August 1852 the Governor General in Council laid down the rule that where grants were assigned in perpetuity, the tenure should lapse to Government on the failure of male legitimate issue in the line of the original grantee.

Meaning of term "original grantee."

No. 4436 dated 25th November 1852, to the Board of Administration.

65. In November 1852 the term "original grantee" in the above rule was, under the authority of the Governor General in Council, defined to mean the party to whom the British Government had confirmed the grant. The succession of collateral relatives of the person to whom the grant was confirmed by the British Government was thus barred.

66. The above rules were circulated to all Commissioners by the Board of Administration's Circular No. 54 of 1852, and were repeated in Book Circular LIII of 1860 as those applicable to grants in perpetuity in the Punjab Proper and the Trans-Satlaj States, it being added that the conquest jágírdárs of the Trans-Satlaj States and the subject chiefs of the Cis-Satlaj States had their own peculiar rules

Territorial extent of above rules

67. New grants made after the 25th November 1859 descend integrally to a single heir, whose title does not become complete until confirmed or recognized by Government.

Grants in perpetuity after 1859

Book Circular XLIII of 1860, and Government of India No. 473 dated 25th Nov. 1859, to Secretary to Government Punjab

68. Subject to any special limitations contained in the grant, succession is governed by the law of inheritance applicable to the family, so far as it is consistent with these rules In some cases a customary rule of inheritance, applicable to the *jágír* and to property considered to be inseparable from the chiefship, has been established, different from the rule applicable to other property in the same family. When this is the case, the law of lapse does not apply to the property attached to the chiefship, but only to the assigned land revenue.

What law governs the succession.

Book Circular LIII of 1860, para 8.

69. Owing to various causes nothing was done to carry out the order given by the Government of India in 1846, that the rules of succession to *jágír* estates in the Cis-Satlaj territories should be ascertained and authoritatively declared until after the second Sikh war. On the 31st December 1850 the Punjab Board of Administration submitted a report on the subject, and requested that a distinct rule should be laid down by Government regarding collateral succession to *pattidári* shares in the Cis-Satlaj States, as the subject was one on which conflicting decisions had hitherto been given by the officers in charge from time to time. In Government of India's No. 461 dated 12th February 1851, to the Board, the following rules were laid down for regulation of succession to *pattidári* or horsemen's shares :—

Succession to *jágír* estates in the Cis-Satlaj territory.

Rules of succession to *pattidári*, or horsemen's shares.

I.—That no widow shall succeed.

II.—That no descendants in the female line shall inherit.

III.—That on failure of a direct male heir, a collateral male heir may succeed if the common ancestor of the deceased and the collateral claimant was in possession of the share at or since the period 1808-9, when our connection with the Cis-Satlaj territory first commenced.

70. The reasons for adopting the status of 1808-9, as that by reference to which questions of succession should be decided, were then given, and it was added that—

"This rule, clearly laid down, will govern the majority of cases which occur, and His Lordship does not see any necessity for establishing an absolute rule in the case of large estates. Each case may, without any difficulty, and with great advantage, be determined upon its own merits as it arises. His Lordship would, however, remark that consideration of the custom of family should have a preponderating influence in the decision of such cases."

Para. 6.
These rules not applicable to "large estates." Regard to be paid to custom of the family.

71. With reference to decisions already given at variance with the rules thus laid down, it was directed that these were by no means to be disturbed. "All parties who have received possession from a British officer should retain it for their own lives, except females, who should receive pensions instead."

Para. 7.
Exception in favor of parties placed in possession by order of any British officer.

72. In forwarding these orders to the Commissioner Cis-Satlaj States, the Board of Administration called attention to the order of Government as to succession to the larger estates, and added "each demise is to be reported, with a statement of the custom of the family." After quoting the latter rule, they added the following explanation :—

No. 316 dated 26th February 1851, paras. 3 and 4.

Demise of holders of "large estates" to be reported.

"This restriction as to females is to apply only to cases on which Mr. Vansittart and Major Mills and other Assistants* gave orders. Should there be any instances in which the Governor General's Agent put females in possession of estates, and did not obtain the sanction of Government, they are to be reported for submission."

Cases of females placed in possession by British officers how to be disposed of.

73. In 1853 the Governor General added the further rule that male heirs who succeeded to widows in possession in 1809 should retain the grants for their respective lives, and authorized four cases mentioned by the Board in which widows who had been in possession in 1808-9 were still in possession, being dealt with in the same manner.

Exception in favor of male heirs who succeeded to widows.

No. 908 dated 10th February 1853, from Secretary to Government of India, to Chief Commissioner.

* The Board's reference to Government specially referred to the orders of these officers.

74. In 1854 the Court of Directors ordered that such widows as were still in possession should be left undisturbed for life, unless they consented to receive pensions of equivalent value in lieu of their landed rights. Where resumptions had already been carried into effect before their orders were received, they did not consider it necessary to interfere.

Exception in favor of widows in possession.

Despatch, in Political Department, No. 36 dated 23rd August 1854.

75. It will be observed that in the orders of 12th February 1851 no absolute rule was laid down regarding the succession to "large estates." In October 1851 Mr. G. F. Edmonstone, Commissioner, in writing to the Board of Administration, remarked that he understood the orders of Government to be applicable to *pattidári* or horsemen's shares only. "I presume," he says, "that the term 'large estates' was meant to comprehend such estates as Búriah, Shahzádpúr, Manmájra, Síálbah and others, which are held not by fraternities of pattidárs, as the pattidars of Bilaspúr, Sadhaurah, Tharwah, Ambálah and Boh, for instance, in fractional horsemen's shares, but by an individual Sardár, as the Sardár of Búriah, or by the descendants of one or more Sardárs, as the Singhpúrias. I find it difficult to propose any definition of the term 'large estates,' and am compelled, therefore, to exemplify my meaning." He therefore considered the estates of Búriah and Ráipúr, regarding which he had received references from the Settlement Officers, to be exempt from enquiry into the status of 1808-9 as being "large estates."

Meaning of the term "large estates."

No 404 dated 18th October 1851, to Board of Administration, para. 2.

76. The Board of Administration, in reply, expressed their concurrence in his opinion that "the term 'large estates' was meant to comprehend such estates as Búriah, Shahzádpúr and others, held not by fraternities of pattidárs, but by individual Sardárs or their descendants."

No. 207 dated 21st January 1852, from Secretary to Board of Administration, to Commissioner, Cis-Satlaj States.

77. In practice the status of 1808-9, though not absolutely prescribed for guidance by Government, has almost invariably been referred to as governing claims of collaterals to succeed to large estates, the custom of the family being referred to only to determine whether the estate should descend integrally or be divided among the nearest heirs, either in equal or unequal shares, what provision should be made for widows, and other points of the like nature. The only express rules with regard to such successions, besides the order of the Government of India, that

Status of 1808-9 generally referred to as governing collateral succession to "large estates."

particular regard should be had to the custom of the family, are contained in a letter of June 1860,* from the Secretary to the Punjab Government, to the Financial Commissioner, with regard to the succession to the chieftainship of Kheri, in the Ludiánah District. It is there laid down that successions to such estates should be settled by order of the Commissioner, and that legitimate issue should always succeed in preference to illegitimate children.

* No. 766 dated 23rd June.

Commissioner to determine the succession. Preference of legitimate issue.

78. In one case, that of the *jágír* of the elder branch of the Rámgarh family, in the Ambálah District, the Government of India, in 1859, authorized the substitution of succession according to primogeniture for division amongst the heirs, which had been the previous custom.

Primogeniture introduced in a branch of the Rámgarh family

No. 1490 dated 1st April 1859, from Under-Secretary to Government of India, to Secretary to Government Punjab.

79. In some cases where a strict application of the status of 1808-9 would have led to shares long held by individual pattidárs being declared to have lapsed, actual possession at the time of the enquiry was allowed to be taken as the basis on which collateral succession should be regulated for the future. This was the rule applied to the Naráyangarh, Bhirog, and Thánesar pattidárs.

Rules of collateral succession to *pattidári* shares modified in certain cases

80. In 1853 it was brought to notice that certain chaudhrís held shares, usually one-seventh, in *jágír* villages of the Kharar tahsíl, and that their tenure was prior to, and distinct from, that of the Sikh jágírdárs who held the remainder. The Governor General in Council authorized their being placed on the same footing in regard to lapses and commutation for service as the other Cis-Satlaj jágírdárs, except that the succession should be limited to the lineal heirs male of the persons in possession when the order was given.

The Kharar chaudhrís.

No. 3601 dated 19th August 1853, to Chief Commissioner, Punjab

81. In the case of the chahárami jágírdárs, who had held the revenues of certain villages in shares with Patiálah, and were brought under British jurisdiction, receiving whole villages to the amount of their shares, the registers to regulate successions were in the first instance prepared with reference to the status of 1852, the year in which the enquiry was entered upon by the Settlement Officer; but in 1860 the Lieutenant Governor of the Punjab authorized the substitution of the status of 1808-9, and the restoration of shares which had been held

In the case of the chahárami's, the rules of succession to *pattidári* shares reverted to.

No. 1021 dated 24th July 1860, to Financial Comissioner.

to have lapsed in consequence of the persons in possession in 1852 having left no lineal male heirs.

82. In the course of the enquiry into lapses and preparation of registers of *jágír* tenures in the Cis-Satlaj-States, certain cases were brought to notice which did not appear to be expressly provided for by the rules laid down by the Government of India. The following subsidiary rules proposed by the Commissioner were in consequence sanctioned by the Board of Administration:—

Subsidiary rules for regulating the succession to *pattidári* shares.

No 207 dated 21st January 1852, to Commissioner Cis-Satlaj States.

I. That a specific order of Government, though opposed to the principles and rules now prescribed, shall avail in favor of the party concerned and his lineal male heirs.

II. That the mere fact of a female having been in possession in 1808-9 shall not avail to stop succession, or to invalidate successions that may have since taken effect. This rule not to extend to females, who, since 1808-9, have succeeded to shares, unless they should have so succeeded with the knowledge and sanction and under the orders of the Political Agent.

Note.—On a reference made by the Board of Administration to Government in 1853, Government declined to allow a title in perpetuity derived from females, but laid down the rule given in para 73, *ante*.

No. 908 dated 10th February 1853, to Secretary to Chief Commissioner.

III. That the official and recorded declaration of the Political Agent as to the person in possession in 1808-9 shall be accepted without question, and the succession continued accordingly.

IV. That alienations by a jágírdár or pattidár of a portion of his holding, whether to relations or strangers, shall neither be officially recognized nor officially recorded.

V. That one or more sons of a common ancestor, in possession in 1808-9, being entitled to the whole share possessed by such common ancestor, shall be held and be declared responsible for the maintenance of widows left by deceased brothers, who, had they lived, would have shared with such son or sons.

VI. That private exchanges of shares, during times past, be recognized, provided that fraudulent intent be not established.

VII. That parties who have had no specified possession since 1808-9 have no valid claim either to share or pension.

VIII. That the Settlement Officer, on the Civil side, shall take cognizance of claims to recovery of shares of which the claimants may have been wrongfully dispossessed, subject to the provisions of the statute of limitations.

IX That the enquiry shall not extend to the possessions of the zaildárs or dependants of an individual Sirdár during the life-time of such Sirdár.

X That on the estate of such Sirdár lapsing, the possession of his zaildárs shall be enquired into, ascertained, and recorded, and that, from and after the date of lapse of the Sirdár's estate, lapses of the zaildár's shares and successions to the same shall follow the 1st and 2nd of the rules prescribed by the orders of Government, No. 461 dated 12th February 1851.

Rule of collateral succession applicable to zaildárs or subordinate jágírdárs.

No. 6 dated 23rd February 1854, from Secretary to Chief Commissioner, to Financial Commissioner.

83. The 9th and 10th of these rules were modified by the Chief Commissioner in February 1854, where it was laid down that the 1st January 1847, the date on which the jágírdárs were deprived of their sovereign powers, should be assumed as the basis of adjudication in all disputes between jágírdárs and zaildárs regarding the shares of the latter. The subordinate jágírs held by zaildárs * before and on the 1st January 1847, and retained up to the date of this order, were therefore declared liable to lapse only in default of lineal male issue of the holders on the 1st January 1847; while, if an invalid succession had occurred after that date, the jágírdár might either resume or maintain the succession during his pleasure.

Succession to *jágir* holdings in Mahráj and Bhuchon.

84. In the case of the jágírdárs of the ilákahs of Mahráj and Bhuchon, in the Hírozpúr District, a special arrangement has been made, Government having given up its claim to lapses in consideration of an increase in the rate of service commutation from 2 anas to 3 anas in the rupee of revenue assessed. The jágírdárs in these ilákahs, who are very numerous,

* In para. 321 of his Ambálah Settlement Report Mr. Melvill describes the zaildárs as occupying the same position towards the jágírdárs as the latter occupy towards Government. Lapses of such tenures are the property of the jágírdár.

are also cultivating proprietors, and succession to the *jágír* holdings is governed by the law of inheritance applicable to the property in the land. Widows, for instance, enjoy their husbands' shares so long as they refrain from a second marriage.

Firozpur Settlement Report, para 239.

85. In November 1860, on the recommendation of the Commissioner of the Trans-Satlaj States, supported by the Financial Commissioner and the Lieutenant Governor, the Government of India sanctioned the introduction of the main rules by which *pattidári* succession was regulated in the Cis-Satlaj States, to govern future cases of succession to conquest *jágírs* released in perpetuity in the Jálandhar Doáb. The rules thus sanctioned were the three laid down by the Government of India on 12th February 1851 (para 69, *ante*), and the 4th and 5th of the subsidiary rules sanctioned by the Board of Administration (para 81, *ante*), the words "or pattidár" being omitted in the 4th rules, and the words "at the period of the first investigation" being substituted for "in 1808 9" in the 5th rule; while the third of the Government of India rules was modified as follows:—

Succession to conquest *jágírs*, Trans-Satlaj States. No. 5657 dated 23rd November 1860, from Secretary to Government of India, to Secretary to Government Punjab.

> III. That, on failure of a direct male heir, a collateral male heir may succeed if the common ancestor of the deceased and of the collateral claimant was in possession of the share at or since the year of primary investigation of the *jágír* tenure, which in the Trans-Satlaj States is ordinarily 1846.

86. "The year of primary investigation" is specified because, though most of the *jágírs* were not released in perpetuity until 1857, they had been investigated, and generally released for life, in 1846 or shortly after.

87. "Direct male heirs" must be taken to mean "male legitimate issue in the line of the person in possession at the period of the first investigation," the adoption of the Cis-Satlaj rules having been proposed by the Commissioner to remove doubts as to the interpretation of the rules contained in the Board's Circular No. 54 of 1852.

88. With reference to the grants confirmed in perpetuity by the Government letter No. 1993 dated 1st May 1857, to the Chief Commissioner, it was laid down in that letter "that all *bodâ fide* lapses should escheat to the Government." None of these *jágírs*, therefore, can be regarded as in the position of a subordinate *jágír* falling on lapse to a superior chief.

Lapses of the conquest *jágírs* confirmed in perpetuity in 1857 escheat to Government.

89 In many families there are established customs regulating the amount of the maintenance chargeable upon the *jágír* income to be assigned to widows of deceased holders; and where the succession of a single heir has been established by custom, the maintenance of the other male members of the family is similarly regulated

Succession to revenue assignments in Hazárah

Regulation of the succession to assignments in Hazarah

Punjab Government No 138 dated 22nd February 1870, to Financial Commissioner

90 In the Hazarah District the *jágírs* granted at annexation were made subject by Government to certain limitations of the succession proposed by Major James Abbott Further *jágírs* were granted for service given in 1857 without any reservation in this respect In the settlement rules sanctioned in 1870 under the Agror Valley Act (III of 1870), the following rules were laid down * for regulating the succession to assignments in that district —

Rule 18 —"The Settlement Officer shall ascertain for each class of revenue assignments granted for more than one life or for the period of settlement, or for each of such cases, where necessary, what rule is best calculated to secure to Government the attainment of the object for which the grant was given The result of his enquiries shall be submitted to the Commissioner, who shall pass final orders as to the rule to be hereafter followed, reporting the same through the Financial Commissioner for the sanction of Government

Rule 19 —"All cases in which orders of succession, contrary to the orders to be laid down under rule 18, have been passed, shall be reported by the Settlement Officer to the Commissioner, who is hereby empowered to revise the previous orders in the spirit of Rule 18, or in such modified way as the peculiar circumstances of such cases may call for

Succession to certain small revenue free grants

Small grants for service to village communities

Book Circular No 13 dated 8th June 1865

No 414 dated 30th May 1865, from Secretary to Govt Punjab, to Financial Commissioner

91. In 1865 the following rule was prescribed to regulate the succession to small revenue free grants, which had been originally granted in consideration of service to be rendered to the village community, and which had been released during the pleasure of Government, —that small grants given on account of service to be performed, or responsibilities undertaken, should be held from generation to generation by one individual only, whose name should be shown in the patwári's returns, and who should ordinarily be the eldest heir of the deceased holder. When there were

* These rules were declared to remain in force by No 13 of the Regulations for the peace and government of the districts of Hazárah, &c, published under 33, Vict Chapter 3, Section 1, by Foreign Department Notification No 31 P dated 5th January 1872, repealing the Agror Valley Act and the rules prescribed thereunder for the Hazárah District, with certain exceptions.

special reasons for superseding such heir, and this was desired by the persons interested in the service to be rendered, this might be arranged by the local authorities.

Occupation at time Circular was issued not to be disturbed.

92. When such a tenure was enjoyed by more than one person when the Circular was issued, the occupation of the holders need not be disturbed, but advantage was to be taken of future successions to get rid of the joint enjoyment.

Sanads or deeds of grant.

Orders for recall of old deeds of grant.

93. The order of the Governor General on the annexation of the Punjab, requiring the surrender of documents entitling to exemption from revenue, and directing that a new deed of grant * should be given when such exemption was maintained, has already been noticed (para. 5). The Board of Administration, in their Circulars No. 5 of 1850 and No. 21 of 1852, accordingly required that persons claiming to hold revenue-free should be called upon to produce their deeds of grant, which should be invariably filed with the record of the investigation.

Permission to give authenticated copies.

94. In Circular No. 34 of 1853 the Financial Commissioner prohibited the practice of returning to the claimant the original deeds so filed, but permitted an authenticated copy to be given, which should be rendered, as nearly as possible, a *facsimile* of the original, and should contain a note of any suspicious appearances presented by the original, which could not easily be reproduced in the copy.

Orders repealed in 1860. Forms sanctioned for new deeds of grant.

95. In Book Circular No. LXII of 1860, by order of the Lieutenant Governor, it was directed that District Officers, when on tour in their districts, should recall any old deeds of grant from former rulers retained by the grantees, and should at the same time deliver the new deeds of grant. Forms for these were issued with Book Circular No. LVII of 1860, but new forms have now been sanctioned by letter No. 575 dated 27th August 1870, from Secretary to Punjab Government, to Financial Commissioner. Lithographed forms will be supplied from the Financial Commissioner's office to be filled up, signed, and delivered to the holders. Grants held by the same party in one district and on the same tenure should

* It is now considered unnecessary to issue such deeds for life grants, the registers being held to be sufficient In the Ambálah and Thánesar Settlements Mr. Wynyard, the Settlement Officer, issued sanads or certificates to the parties in whose favor revenue-free plots were released—Ambálah Settlement Report, southern parganahs, para. 268.

be included in one deed of grant; great care should be taken in entering the precise conditions of the grant, and, when a portion only of a large holding is to be continued to heirs, the nature and extent of the tenure should be clearly defined.

By whom to be authenticated.
No. 575 dated 27th August 1870, from Secy. to Govt Punjab, to Financial Commissioner

96. The deeds of grant may be signed and sealed by Commissioners on behalf of Government after careful comparison with the registers in which the orders of Government were passed.

Form sanctioned in letter above quoted. Terms of the grant.

97. The deed of grant for assignments in perpetuity states that the grant is to be held during the pleasure of Government, and is conditional on good conduct and loyalty.

Prohibition of alienation
No. 2990 dated 27th August 1852, from Secretary to the Government of India, to the Board of Administration.

98. Except in the case of revenue-free holdings investigated and released in perpetuity under Regulations XXXI and XXXVI of 1803, in those portions of the Dehli and Hissár Divisions which were under the Government of the North-Western Provinces up to A D 1857, the deed of grant should contain an express prohibition of alienation, and declare that the tenure will lapse to Government on the failure of male legitimate issue in the line of the original grantee

Limitation of succession.

99. The limitation of the succession, prescribed by Book Circular No. XLIII of 1860 (*ante* para. 67), should be inserted in the deeds of grant of assignments of land revenue granted in perpetuity after the 25th November 1859. In all cases limitations established by the terms of the grant should be specified.

Forfeiture of revenue-free tenures, and liability for debts contracted by the holders.

Forfeiture for crime.
Circular 44 of 1856
Book Circular XL of 1858.
Book Circular LIII of 1860.

100. All assignments of land revenue are forfeited on the commission of any treasonable or disloyal act, or of a crime for which a capital sentence may be passed, by the assignee in possession. If such offence be committed by a person having a reversionary interest in the assignment, he forfeits his right of succession, which passes to the next heir, as if he had died a natural death.

Liability for debt during the life-time of the debtor.
Book Circular LIII of 1860.

101. Assignments of land revenue are liable to attachment under decrees of court for debts contracted by the holders. While attached, the revenue will be collected by the

tahsíldár and paid to the decree-holder. On the death of the holder the attachment will come to an end. Grants for the maintenance of institutions are not liable for the personal debts of the managers.

Liability for debts of deceased-holders now limited. Circulars 8 and 65 of 1857. Book Circulars XXXVII of 1858 and LIII of 1865.

102. A perpetual assignment of land revenue is not liable for the debts of a deceased-holder unless the person succeeding to it appropriates, as heir, the remaining property left by the deceased. If he do so, the proceeds of the assignment of land revenue will, if necessary, be available during his incumbency for the liquidation of the debts of the deceased, as well as the remainder of the property. The heir refusing to become responsible for the debts of the deceased, *and renouncing the inheritance of property other than the* assignment of the land revenue, may claim to redeem the family mansion or other immoveable property of the deceased at a valuation to be fixed by arbitrators

Debts incurred by a deceased-holder before Jany. 1857. Circular 8 of 1857. Book Circular XXXVII of 1858.

103. As regards debts incurred before January 1857, the courts may exercise a discretion in determining, with reference to the conditions of the contract and the circumstances attending it, to what, if any, extent the proceeds of a perpetual assignment of land revenue shall be made available towards the liquidation of the debts after the death of the party who incurred or made himself responsible for them, provided that, if the court declare any portion of the proceeds of the assignment of land revenue to be liable, the order shall not be carried out without the express sanction of the Lieutenant Governor.

Settlement of lands held in jágír.

Assessment of *jágír* lands. No. 418 dated 31st March 1849, para. 43.

104. In the despatch of the Government of India constituting the Punjab Board of Administration it was directed that, in order to prevent jágírdárs or other revenue-free holders from deriving more from the land than would be taken by the Government, whose place they occupy, the Government revenue should be assessed upon each village or tract which constitutes a separate revenue-free tenure.

Not assessed at Summary Settlement nor in the settlements of the Trans-Satlaj States.

105. In the Summary Settlements of districts in the Punjab Proper, and in the Regular Settlements which were being made at the same time is the Trans-Satlaj States, those *jágír* villages only were assessed in which a settlement of the revenue was applied for either by the jágírdár or by the proprietors of the village.

Assessed in other Regular Settlements.

Circular No. 13 dated 26th February 1852, to all Commissioners, except those of the Cis and Trans-Satlaj States.

106. But on the commencement of Regular Settlement operations in the Punjab Proper, the Board of Administration issued orders that on the introduction of the Regular Settlement into any district, all *jágír* villages should be assessed simultaneously with those of Government. By their letter No. 447 dated 13th February 1852, they had already directed that all *jágír* villages in the Cis-Satlaj States should be brought under assessment.

Assessment how far acted on.

Book: Circular No. LIII of 1860.

107. In the Consolidated Circular issued in 1860 with reference to jágírdárs and maáfídárs, it is laid down that any exception from the rule, that all revenue-free holdings should be assessed, must be supported by special orders issued from the Financial Commissioner's office. Where both parties, the proprietors and the Government assignees, have been satisfied, absolute compliance with the terms of settlement has not been enforced: but in case of dispute the courts must enforce compliance with them, and, when once introduced, they cannot afterwards be departed from. In a few instances where reduction of assessment had been found necessary, permission had been given to collect by appraisement, provided that the proprietors consented to this, and that all outstanding balances were remitted. Any such change from assessment to appraisement must be made at the beginning of the agricultural year before any idea could be formed of the out-turn of the harvest from which it would take effect.

Interpretation of orders releasing a portion of a jágír of a specified value.

Rateable diminution when value less than that assumed at time of grant.

108. The *jágírs* of the Punjab Proper having been reported by the Board of Administration for the orders of Government before they had been brought under settlement, their value had been assumed at the sums entered in the records of the original grants by the Sikh Government preserved at Lahore. The actual value, as determined by assessment, was in most cases found to be much below the assumed value, and a question consequently arose as to the interpretation of orders releasing a portion of a *jágír* of a specified value, and resuming the remainder, and of orders that, on the death of the present incumbent, a portion of the *jágír* should be resumed, and a portion of a specified value continued to his successor. It was ruled by the Governor General in Council that any difference between the assumed and the actual value of a *jágír* in part released and in part resumed should be distributed

Financial Commissioner's Circular No. 33 dated 1st August 1853.

in rateable proportions between the jagirdars and Government When the actual value fell short of the assumed value, the person entitled under the orders of Government to a *jagir* of specified value would therefore receive a *jagir* reduced in the same proportion

Circular No 12 of 1856 and letter No 982 dated 15th February 1856 from Secretary to Government of India to Chief Commissioner

The same rule applied to deductions of fixed amount

109 In 1856, under the authority of the Governor General in Council, this principle was extended to cases in which a deduction of fixed amount, evidently calculated at a certain percentage upon the assumed value of the *jágir*, had been made for the life of the holders in commutation of service formerly rendered by them It was ruled that alterations prospectively made in the assessment should involve the alteration in the same proportion of the amount of the tribute or specified share received by Government, and of the reversionary *jágir* assigned to them

Reduction of revenue free lands held in excess of the grant

Circular No 18 of 1855 Reductions of area how to be effected

110 In 1855 the following rule was laid down by the Financial Commissioner for the reduction of revenue free lands of unauthorized extent found in the possession of any assignee —

When the revenue free land in the possession of an incumbent is in excess of the area sanctioned, he may, as a general rule, be allowed to select the portion which shall be withdrawn, provided the portion retained by him forms a continuous and tolerably compact plot, and where the fields retained would not otherwise make up the precise area required, an excess not exceeding half an acre may be allowed If, however, the portion in excess has been knowingly and wrongfully appropriated by the holder, and can be identified, this rule will not apply, and if, on any other account, he may not appear to be deserving of such an indulgence, or if, for special reasons, the measure be inexpedient, it shall be discretionary with the Settlement or District Officer, as the case may be, to allot to him such portion only of the land, of the prescribed area, as may appear just and appropriate.

Consolidation of revenue free holdings.

Circular No 12 of 1864 Consolidation.

111. Every case in which it is proposed to consolidate in one village perpetual revenue free holdings scattered through different villages must be specially reported for the orders of Government

Suspensions, remissions, and revision of assessment.

Suspensions, &c.
Book Circular No. LIII of 1860.

112. Proprietors of *jágír* villages are entitled to precisely the same consideration as the proprietors of villages paying their revenue to Government for diluvion, calamity of season, or over-assessment.

Liability of Revenue free lands to rates, cesses, and other charges.

Liability to rates and cesses, &c.
Circular No 22 of 1855.
See also rules under the Punjab Land Revenue Act for the remuneration of lambardárs and patwáris.

113. In 1855 it was laid down by the Financial Commissioner, with the concurrence of the Chief Commissioner, that lands held revenue-free were liable to the same charges for patwáris' and lambardárs' fees, the payment of village servants and other village expenses, and cesses levied, in addition to the Government revenue, as were borne by lands paying revenue to Government. These charges should be paid by the proprietor of the land in addition to the revenue payable to the revenue-free holder, and if the latter were also the proprietor, he should pay the charges himself.

114 The Punjab Local Rates Act, 1871, specially provides for the liability of land the revenue of which is assigned to the rates levied under that Act.

Grant of Assignments of Land Revenue in certain cases.

Ináms to village servants.
Circular No. 10 of 1853, rule 2 (*ante* para. 22).

115. Grants of land revenue-free to village servants may be made by Settlement Officers under the authority of the Financial Commissioner and the Local Government.

Grants to institutions to be in the name of the head of the institution.
Book Circular XLVII of 1861.

116. Grants for the support of religious, charitable, or other analogous institutions should ordinarily be made in the name of the head or chief representative of the institution, any person who may consider that he has a claim upon him being left to establish it in the Civil Courts. Any case in which a different course may be expedient should be specially reported for orders.

117. Revenue-free grants of uncultivated ground, of sufficient extent to employ one pair of bullocks in watering trees, may be made to persons who will undertake to sink a well and plant a grove on one of the main lines of road, to be held so long as the land continues under plantation. The same sanction is required for these as for other grants in perpetuity, Provided that such grants shall be at intervals of not less than two * miles apart.

Grants for wells and groves.

Board of Administration's Circular No. 15 of 1852; Government of India No. 218 dated 13th Feby. 1852, para. 5.

118. Where a grant of sufficient extent to employ one pair of bullocks is not a sufficient inducement, a larger grant may be recommended, conditional upon a substantial well being constructed and kept in repair, and on the maintenance of a grove of specified area. In the terms proposed the facility or difficulty of sinking a well and of rearing trees in the locality should be kept in view.

Circulars No. 97 of 1855, and No. 13 of 1857.†

119. Where waste lands are not available in suitable positions along the sides of main roads, grants of cultivated lands, for the purpose of sinking wells and planting groves in localities where they are deemed necessary, may be proposed, the reasons for proposing such grant being explained.

Book Circular No. XXX of 1858.

120. The site of the proposed grant must be at a distance of at least two miles from the nearest existing roadside well and grove.

121. Any new grove that may be planted must cover not less than two acres of land, and the grant will be resumable if a grove of this extent be not kept up, and the well maintained in repair.

122. The annual value of the grant must not be more than six per cent. upon the estimated cost of completing the well and grove, and it must in no case exceed Rs. 30.

123. It is always a condition of such grants, whether of cultivated or of uncultivated land, that travellers should be allowed the use of the grove and of water from the well.

124. Applications for such grants should be in the following form, and several cases may be included in the same application :—

Book Circulars XI of 1860 and XV of 1861.

* Substituted for "three" in the original, as Book Circular No XXX of 1858 allows grants of cultivated land at the shorter distance.

† In the case referred to in these Circulars, five acres were granted in perpetuity and five acres for twenty years, on condition of planting and keeping up a grove not less than two acres in extent, and of digging and keeping in repair a substantial well.

Statement of proposed revenue free grants for roadside wells and groves in ——————— *District.*

Number	Name of person who undertakes to form the well and grove	Distance of nearest existing roadside well and grove	Village and talisil in which the land is situate and name of high road on which the grove will be formed	Nature of proposed work area to be planted with a grove and capital expended or to be expended on the work	LAND PROPOSED TO BE GIVEN REVENUE FREE				REMARKS (The arrangements made by the applicant with the proprietors of the land, when they do not themselves form the well and grove should be stated, and if cultivated land is proposed to be given it should be distinctly stated that uncultivated land is not available)
					Extent			Annual Revenue			
					Rs	A	P	Rs	A	P	

APPENDIX No IV —ZAILDARS, *vide para* 170

Proceedings of the Hon'ble the Lieutenant Governor Punjab, in the Department of Agriculture, Revenue and Commerce No 273 dated 29th February 1872

Read—

Letter from Secretary to Financial Commissioner No 816—6296 dated 11th October 1871, and its enclosed correspondence with the Settlement Commissioner, relative to the position and duties of revenue zaildárs

RESOLUTION —It being desirable to define the position and duties of zaildárs in the Punjab, the Hon'ble the Lieutenant Governor directs the issue and observance of the following rules on the subject —

I —Zaildárs selected to perform certain duties from their character or local influence are not salaried servants of Government, their allowances being granted to meet expenses incidental to their position

II —No hereditary claim to a zaildárship will be admitted The appointment will be made by selection.

III —The selection of zaildars will be determined by (1) the votes of the headmen of the villages in their circle (zail), (2) personal fitness, (3) services rendered to the State

IV.—The appointment of zaildárs will rest with the Deputy Commissioner, who should personally make enquiries regarding the candidates, and call for no written report on their qualifications from the tahsildars

V —The zaildár is the representative of Government in his circle

VI.—He is responsible for the notification of all Government orders communicated to him in the villages of his circle

VII —He is responsible to the District Officer for reporting crime, and for giving every assistance in arresting criminals Any failure in these duties will be reported by the District Superintendent, Police, to the District Officer

VIII.—He will see that patwáris of his circle conduct their duties properly

IX.—He will exert his influence to ensure the orders of Government being promptly obeyed in his circle.

X —He will attend on Government officers when visiting his circle

XI —He will take care that boundary pillars, Government buildings, and village roads in his circle, are maintained in proper repair, reporting when any repairs are necessary

XII —He should be present at all land measurements, and at any local enquiries when his presence is required

XIII During the progress of the settlement, he will exercise such supervision as the Settlement Officer shall determine

XIV —He should take care that the headmen of his circle properly perform their prescribed duties, but should not himself collect the Government revenue, or interfere with the village management of accounts and expenses

XV — He should carefully abstain from interference with cases which have been instituted in the Law Courts

XVI —Any zaildár failing to render assistance to the district authorities, or neglecting the duties prescribed in these rules, will, after having twice received a written warning from the Deputy Commissioner, be reported to the Commissioner of the Division for removal or other appropriate punishment.

ORDERED, that a copy of the foregoing Resolution be forwarded, for information and guidance, to the Secretary to Financial Commissioner, in reply to his letter No. 816 dated 11th October 1871, and that the original enclosures thereof be returned

By order of the Hon'ble the Lieutenant Governor,

L H GRIFFIN,

Offg Secretary to Government, Punjab

APPENDIX No. V.—(*vide para.* 188.)

Statement showing the Tenures on which the Estates of *District are held.*

Tahsil.	Pargannah or Zail.	*Zamindári.*		Pattidari pure.	Bhyacharah pure.	Pattidari or Bhyacharah imperfect.	TOTAL.
		Landlord.	Communal.				
Jullundur.	Kartárpur.	Diálpur. Dhírpur. Kartárpur. Mírchhota. Núrpur.	Bakhanangal. Fattah Jalal. &c.	Surá.	Alikhel.	Chohan. Chúhar. Fazilpur &c.	
	TOTAL ...	5	4	1	6	16	32

DIRECTIONS

FOR

COLLECTORS OF LAND REVENUE

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SECTION VII —*Miscellaneous*

LIST OF APPENDICES.

List of paras. in original edition of "Directions for Collectors," with corresponding paragraphs in the present edition.

Original numbers of paras.	Corresponding numbers in this edition.	Original numbers of paras.	Corresponding numbers in this edition.
1 to 15	1 to 15	86	79, modified.
16 & 17	16 & 17, modified.	87	Omitted.
18	18	88	81, modified
19	19, modified.	89	80, modified.
20 to 30	20 to 30	90 to 93	83 to 86
31	31, abridged.	94	88, abridged.
32 to 40	32 to 40	95 & 96	Omitted.
41	41, modified.	97	89
42	44	98	Omitted.
43 & 44	42 & 43	99	90, modified.
45 to 47	93 to 95, modified.	100	Omitted.
48 to 54	45 to 51	101 to 106	96 to 101
55 to 57	52 to 54, modified.	107	Omitted.
58 & 59	55 & 56	108 & 109	102 to 103
60	57, modified.	110	Omitted.
61	58	111	104, modified.
62	59, modified.	112	Omitted
63	Omitted.	113 to 122	106 to 115
64	61, modified.	123	Omitted.
65	62	124	118, modified.
66	Omitted.	125 to 129	Omitted.
67 & 68	63 & 64, modified.	130 to 132	123 to 125
69	Omitted.	133	126. modified.
70	66	134 to 144	127 to 137
71	76, modified.	145 to 147	138 to 140, modified
72 & 73	67 & 68, modified.	148 to 151	141 to 144
74 to 76	69 to 71	152 & 153	Omitted.
77	Omitted.	154	146
78 & 79	77 & 78	155 to 160	Omitted.
80	76, modified.	161 to 163	149 to 151
81	72 & 73, modified.	164	Omitted.
82 to 84	73 to 75, modified.	165 & 166	153 & 154, modified.
85	Omitted.		

List of paras in original edition of "Directions for Collections" (—concld)

Original numbers of paras	Corresponding numbers in this edition	Original numbers of paras	Corresponding numbers in this edition
167	155, modified.	253	217, modified.
168	157, modified.	254 to 309	Omitted.
169	158	310 to 316	260 to 266
170	155, modified.	317 to 319	Omitted
171	159 modified	320	267
172	Omitted	321	Omitted
173 & 174	160 & 161	322 to 330	268 to 276
175	162, modified	331 & 332	Omitted.
176 & 177	163 & 164	333 & 334	279 & 280
178	165, modified	335	Omitted
179 to 184	Omitted	336 & 337	282 & 283
185 to 189	167 to 171	338	284, modified
190 to 192	173 to 175	339 to 347	Omitted
193	Omitted	348	291
194	176, modified		
195	177		
196	Omitted		
197	180, modified		
198 to 200	181 to 183		
201 to 206	Omitted		
207 to 209	189 to 191, modified		
210	Omitted		
211	194, modified.		
212	Omitted		
213	195		
214	Omitted		
215	198, modified		
216	Omitted.		
217	199		
218 to 235	Omitted.		
236 to 245	206 to 215		
246 to 252	Omitted.		

Paras 60, 65, 82, 87, 91, 92, 105, 116, 117, 119 to 122, 145, 147, 148, 152, 156, 166, 172, 178, 179, 184 to 188, 192, 193, 196, 197, 200 to 205, 216, 218 to 259, 277, 278, 281, & 285 to 290, may be regarded as new.

DIRECTIONS

FOR

COLLECTORS OF LAND REVENUE

SECTION I.—*Introductory*

1 In the theory of native governments the revenue derived to the State from the land is essentially rent. Unless under circumstances of special grant or contract it is levied in money or in kind from the actual cultivators, whether proprietors or otherwise, and the small consideration allowed to the manager is more a remuneration for the labor of collection than an acknowledgment of proprietary right. This practice has been so far altered by the British Government in the Bengal Presidency that contracts have been universally formed on avowedly easy terms for a period of years or in perpetuity, and that the proprietors have been allowed to appropriate to their own use all the surplus that they can derive from the land over and above the stipulated sum. The Government demand has, therefore, become a tax on rent.

2 When this tax has been fixed in perpetuity, the Government, so long as the tax is paid, ceases to look for any increase of its Land Revenue from the improvement of the land. When, however, the tax is fixed only for a period, and liable to increase or decrease at the end of that term the Government continues to have an immediate and direct interest in the improvement of the land. In the former case the Officer of the Government entrusted with the collection of the Land Revenue may be a mere tax-gatherer, but in the latter case his position is more that of the steward of a great landed proprietor.

3 Another peculiarity in the position of a Collector may result from the nature of the tenures on which the land is held. In the Punjab, as well as in the North-Western Provinces, the settlement has been made in numerous cases, not with individual proprietors for their own estates, but with the representa-

tives of several proprietors for certain tracts of land constituting the joint property of the community The members of these communities may be numerous, united together by peculiar customs, and sharing the profits and the consequent responsibility for the Government demand amongst themselves according to some local law Each person is primarily responsible for his own share according to the local rule, but ultimately, in case of his flight or insolvency, the whole community is jointly responsible * Hence it follows, that the Officer entrusted with the collection of the Land Revenue is frequently called upon to exercise functions essentially judicial So long as the Government demand is punctually paid, he has no power of interference Any individual proprietor of an entire estate or any community of proprietors can keep their property exempt from all interference by making their payments with punctuality, but, when default occurs, the Collector is compelled to interfere He must decide from whom amongst many proprietors the balance is due, and on failing to realize the balance from the defaulter he must decide when and in what manner the joint responsibility of the whole body is to be enforced

4 From these two peculiarities it results that the Collector of Land Revenue in order rightly to discharge his duties, must possess the most complete knowledge of the landed tenures in his district, and of every thing which tends to affect the interests of the agricultural population

5 The present compilation is designed to assist him in the discharge of those duties, and of the many other correlative duties, which result from his primary office as a Collector of Land Revenue

6 In order the better to do this, his functions will be described in the several capacities in which he is called upon to act —

First —As a Collector of the Government Revenue

Secondly —As Registrar of landed property in the district

Thirdly —As Judge between landlord and tenant in certain cases

* The constitution of these communities is noticed in Directions for Settlement Officers, paras 100 to 113, and in paras 20 to 23 of the Remarks on the System of Land Revenue Administration by Mr. Thomason in the North Western Provinces, prefixed to this book.

Fourthly—As Ministerial Officer of the Courts of Justice

Fifthly—As Treasurer and Accountant of the District

7 Before, however, proceeding to the discussion of these subjects, it is necessary to consider the agency which the Government has provided for the performance of these very important functions It will be found to be numerous, well disposed, and, when rightly handled, very efficient

8 Every Collector, besides Covenanted Assistants, has at his head-quarters one or more Uncovenanted Extra Assistants and an office establishment, consisting of a Sarishtahdár and several Native Muharrirs, a few English Clerks, Native Accountants, and Record-keepers, a Treasurer, and Názir's establishment

9 At convenient posts throughout his district he has Tahsíldárs, or Native Collectors with large salaries, having jurisdiction over one or more parganahs, and having under them establishments of native Muharrirs, a Tahvíldár or Treasurer, and a sufficient force of peons Besides these in every tahsíl subdivision there are one or more kánúngos, and in every village or group of villages a patwárí, who are generally considered hereditary officers

10 The duty of a Collector towards the Gazetted Officers, who may be placed under him by the Government, is most important He is responsible for all they do, but he is bound to find them full employment, in such a manner as to give them complete instruction in all branches of their duty, and at the same time to maintain an effective control over them If a Collector is himself master of his work, and possessed of ordinary tact and judgment, he will be able to do this, so as to develop the characters of his subordinates, and form them into valuable officers of the Government, at the same time that he attaches them to himself by one of the strongest ties, viz, that of gratitude for advancement in public life The Collector, who is jealous of his subordinates, and endeavours to keep every thing in his own hands, is unjust towards those interests he ought to promote, whilst he needlessly harasses himself, and leaves the work ill done, and the people consequently injured. A very little time spent in laying out the work, and in explaining the principles on which it is to be conducted, will benefit his subordinates, and will also leave him at leisure to give his attention to those really important matters which

must always present themselves before every public officer to whom interests of great magnitude are entrusted. This subject is of so much importance that it will be advantageous to dwell upon it, and to point out one at least of the ways in which it may be performed, though it is by no means intended to render the arrangement obligatory

11 Offices are often arranged according to classes of cases There is the file of mutation cases, the file of patwárí's annual returns, &c &c Some of them are considered of more and some of less importance Those which are rightly or wrongly considered of the least importance are made over to an Assistant, who is left to blunder through them as he best can, with no information as to the principles on which they are to be decided, or the objects which they are designed to accomplish. This is unjust to the Assistant and also to the people, whose rights are thus given over to his adjudication. The right of appeal may lessen the injury to the latter, but it only saves them from ultimate loss by inflicting on them the trouble and expense of a re-hearing of the case

12 No Assistant should be trusted with the trial of a case till he has acquired a sufficient knowledge of official language, and of the forms and principles of official enquiries This will be acquired by the preparation of translations, abstracts of cases or reports in English on particular issues. These may often be so contrived as to save time to the Collector, whilst they afford instruction to the Assistant As soon as the Assistant is thus qualified to enter upon the discharge of more responsible duties, he should be entrusted with some specific charge, for the right performance of which he will be responsible to his principal

13 For this purpose, as well as on other considerations, it will probably be found more advantageous to divide the work of the office according to tahsíl or parganah subdivisions * than according to subjects Let all suits of whatever sort

* In 1861 the Financial Commissioner directed, in compliance with orders issued by His Honor the Lieutenant Governor, "that in future every Assistant with full powers should, if possible, be placed in charge of at least one tahsil, under such amount of control and supervision on the part of the Deputy Commissioner as the latter may deem fit in each case." Where such a charge was not entrusted to an Assistant with full powers, the cause was required to be explained by the Deputy Commissioner in the Quarterly Business Returns, and the Commissioner and Financial Commissioner were to express their opinions as to the sufficiency of such cause. Financial Commissioner's Book Circular No. 33 of 1861).

classified of course according to their proper heads, for each such subdivision, be placed in the hands of certain of the native establishment, who will have to see to the proper performance of all work connected with that portion of the district The classification of suits should correspond with that prescribed hereafter for the arrangement of the records Each set of the Amla should have the files corresponding with those headings * for their own portion of the district. Such being the case, the Collector will be able to keep the whole in his own hands, or to make over any portion to his Deputy or Assistant, more or less relaxing his control, or maintaining only a general supervision. Wherever disorganization may be found to prevail, he can at once resume the administration of that particular portion When he himself or any one of his subordinates proceeds into the interior of the district, the administration of that portion to which the visit extends can be made over to him, so that the efficiency of the control and the convenience of the people will be consulted, by the presence in their immediate vicinity of the officer entrusted with the conduct of their affairs Weekly statements should be drawn up, exhibiting the number of suits instituted, decided, and pending in each portion of the district. These may be prepared in the native language, and laid upon his table on some fixed day in each week, and will serve to keep him perfectly aware of the progress of the work.

14 It will generally be found that an intelligent subordinate officer, to whom a portion of a district is thus entrusted, will take an interest in the welfare of his charge, and exert himself, both to acquire complete aquaintance with all that concerns it, and also to prevent the occurrence of anything wrong He will also acquire a complete knowledge of every part of his duty and be competent to assume charge of an entire district, when it may be entrusted to him

15. An Assistant must not of course be put in complete charge of a portion of the district at once, but should be gradually introduced to the charge† under the eye of the

* This will not affect the maintenance of the registers of pending cases (*mislband registers*) which will be kept up according to departments for the entire district, and not for each of its subdivisions.

† In 1853 the Financial Commissioner directed that all Assistant and Extra Assistant Commissioners, whether European or Native, should be employed in Revenue business, the Deputy Commissioner determining from time to time what particular description of business each could most beneficially and conveniently be employed in. If, owing to inexperience or other cause, they were

Collector till he is able to act for himself. In cases where he is not competent to give final orders, he may be directed to try particular issues, or to complete the investigation of some cases, and to send up the papers with his opinion for the final orders of his superior

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not qualified to dispose of the business themselves, cases of different classes should be made over to them for investigation and report —(Financial Commissioner's Circular No 46 of 1853)

In 1860, under the orders of Government, the Financial Commissioner repeated the direction that every European Assistant or Extra Assistant should take some portion of the revenue duties of the district, according to his capacity In the case of Assistants who were learning their duties, he suggested that it would be convenient to make over one division of the revenue business at a time, so that they might not be confused by the novelty and variety of the work. They might, for instance, take the Accounts division for at least six months, then the Excise and Miscellaneous, and finally the Registration, Land Revenue, and Settlement

A Muharrir belonging to the Revenue establishment should attend on the Assistant with the papers for orders, which should be carried out in the Revenue office, under the countersignature of the Superintendent.

Para. 5 to 7 of the Circular in which these instructions are conveyed are here reprinted —

5 Practised Assistants, who have passed the higher standard, should take their turn in the disposal of every one of the Revenue divisions of work In the cold weather they should be employed in testing the alluvion and diluvion cases, in revision of Settlements, or any other field-work that may arise In the other seasons of the year they should revise a certain number of the patwárí's annual papers and prepare reports of mufti investigations, or compensation for land taken up by Government

6 But under no circumstances is the Assistant to make organic changes, lay down rules of practice, alter the hours of attending office, fine or remove Government employés of any rank, but he may recommend such measures to the Deputy Commissioner. He should not correspond with the Deputy Commissioner by public letter or rubakari as if his office were separate and distinct, but by demi-official letter and personal conference or by sending up the vernacular file which leads to the reference

7 The Deputy Commissioner has authority to remove the file of pending cases from any one of his subordinates, or re-distribute the current work, but he will be responsible to the Commissioner for any arbitrary or vexatious use of that power

A memorandum was required to be attached to the quarterly business return showing the divisions of work in which each Assistant or Extra Assistant, European or Native, had been engaged.—(Financial Commissioner's Book Circular No. 28 of 1860).

A form for giving this information was afterwards prescribed, and in Book Circular No IV of 1864, it was ordered that the work of all officers exercising powers, from the Deputy Commissioner down to Tahsíldárs and Honorary Magistrates, should be included therein. A divisional abstract of this form is submitted by Commissioner to the Financial Commissioner with the detailed Revenue Business Statements received from District Officers.—(Circular No. 101 of 1867).

To enable the superior authorities to ascertain that these orders were properly carried out, and to judge of the progress made by the officers, and the degree of attention given by Deputy Commissioners to the instruction of their

16 The Extra Assistants are appointed and removed only by the Government If the Treasury work is heavy, it is often advisable to place an Assistant or Extra Assistant Commissioner acquainted with the English language and system of accounts in charge of it.

17 The sanction of the Commissioner of the Division is necessary to the appointment or removal of the Superintendent and Deputy Superintendent of the Deputy Commissioner's vernacular office, and of the Record keeper of the District The same sanction is required before prosecuting any of these officers for offences committed in his official capacity, or in connection with the duties of his office.

18. The parganah office of kánúngo and the village office of patwárí are generally hereditary. The feeling of the people is strongly in favor of hereditary succession to these offices, and there are many reasons which render it very desirable to respect this feeling The local influence and knowledge of the hereditary officer is greater than that of a stranger can be, and his respectability of character is more likely to be maintained Positive delinquency or incapacity must of course disqualify individuals, but in such cases some persons near of kin may be selected, or, if the succession be necessarily interrupted in favor of a better qualified stranger, recurrence may be had to the former line on the first favorable opportunity Since the establishment of copious records on our own system, the power and utility of the kánúngos is no longer what it formerly was, but still a Collector will not be wise to cast aside the support and assistance he may derive from these old and acknowledged officers The kánúngos will be found most useful agents in the introduction and correct mainte-

subordinates, each Assistant or Extra Assistant is required to keep registers of all cases investigated or decided by them, these are in the form of a separate sheet for each case, in which he records a memorandum stating the circumstances of the case, with the conclusions at which he arrived, and his reasons. These registers are from time to time examined by the Deputy Commissioner, who enters his own remarks and instructions, after sending for the record of any of the cases if he finds this necessary At the close of each month they are forwarded to the Commissioner who is expected to notice and correct any errors of procedure, and they may be called for from time to time by the Financial Commissioner Commissioners may exempt from the duty of keeping them up any Assistant whose decisions are conspicuous for excellence Cases in which a formal order is passed as a matter of course need not be entered, but all cases, whether Judicial or Administrative, in which a decision or order is given on the merits should appear in the register (Financial Commissioner's Circular No 46 of 1853, and Book Circular 50 of 1860 See Rules of Procedure under Section 65 of the Panjáb Land Revenue Act For rules as to tours and diaries of Assistant Commissioners, *vide* Appendix No I).

nance of the system of village registration, of which the patwárí's annual papers form the basis, and also in the preservation of order and method in the record office The skilful Collector will find it advantageous to have part of his fixed establishments, selected and qualified as the kánúngos are, on a different principle from the other native officers. The functions of the kánúngo and patwárí [are described in the rules issued by the Local Government under the Punjab Land Revenue Act, 1871, which should be carefully studied]

19. The value of all the higher appointments on the establishment is enhanced by the provision of superannuation pensions claimable after a certain term of service Travelling allowances and leaves of absence are also granted under certain circumstances. [The rules on these subjects will be found in the codes issued by the Government of India]

20 Few things will contribute more to the ease and efficiency with which a Collector will discharge his duties, than a perfect acquaintance with the powers and capacities of his establishment, and a knowledge of the means by which they may be employed to the best advantage A Collector should first study to obtain a thorough acquaintance with every branch of his work He should then endeavour to throw off upon others all that they can be made to do for him, and he should restrict himself to the duty of distributing the work, and of controlling and supervising the operations of his subordinates.

21. When any extra work beyond the common routine has to be performed, either from the evident exigency of the case, or under orders from a superior authority, it is not unusual to permit the emergency to be made the immediate occasion of an application for extra establishment. There are many hangers-on upon the office whose friends amongst the Amlah are sure immediately to suggest the necessity for such additional aid Before the necessity is admitted, some consideration should be given to the nature of the required duty, the persons by whom it can be best performed, and the way in which its rapid and accurate execution can be best ensured. When this has been done, and the correctness of the conclusion tested by partial experiment, if, after all, it is found that the completion of the work will interfere with the punctual discharge of the current duties of the office, an application to superior authority, stating the grounds on which the assistance is required, and explaining the mode in which it will be employed, will be sure to command immediate attention and acquiescence.

22. An instance may serve to illustrate what is meant in this respect. Suppose that the list of tenures required to be kept in every Collector's office by paragraph 188 of the Directions for Settlement Officers is found to be defective or incorrect, and that its revision is necessary. For the performance of this operation it is necessary to understand the principles of the classification, and to be aware of the characteristics of the existing tenures. The first thought probably would be that an extra establishment would be required to perform this laborious operation in the district office. But further reflection would show that any extra establishment that could be entertained would have to acquire both the kinds of information necessary for a performance of the work. They would first have to learn the principles of the classification, and then to ascertain by a laborious examination of the voluminous records of the office how the existing tenures fall into one or other of the classes. But the kánúngos and tahsíl officers are familiar with the characters of existing tenures, and might easily be taught, if they have not already acquired, the principles of the prescribed classification. They are therefore the proper persons to perform this work Lists of the mahals in each parganah should be furnished them, and they should be required to fill in the nature of the tenure. The double purpose would thus be answered of affording useful instruction to the tahsíl officers, and of compiling a correct record at no extra cost It would be necessary to examine and test their returns, as much as it would be those of an extra establishment. Verbal interrogation of the compilers with occasional reference to the records would very soon show whether the new lists were rightly drawn up.

23. The efficiency of a Collector's administration of his duties will greatly depend on the manner in which he conducts himself towards his native subordinates. Difference of religion and of social system necessarily separates him greatly from them, and prevents his forming that accurate estimate of character which is only to be acquired in the confidence of private intercourse. Conscious of this disadvantage, he should strive to remedy it, by giving them the freest access to him in all official matters, and by labouring to inspire them with confidence in the soundness of his judgment and rectitude of his purpose. Excessive suspicion of native subordinates is as fatal as excessive confidence. They are necessarily the agents in executing his orders ; they must be in a great measure the exponents of his will, and should be to some degree his confidential advisers in cases of difficulty. A person who is extremely suspicious of advice tendered to him, may be as much

shackled in his power of independent action as the man who weakly assents to whatever is proposed. The safest plan is to consult those who are best able to give advice, and to weigh their expressed opinions impartially and dispassionately. Every effort should also be used to render the performance of their duties as little as possible burdensome to them The officer who keeps them long in attendance at his house, or who requires that they perform their ordinary duties in court in a painful standing position, cannot derive from them that degree of assistance which would otherwise be rendered He shou d so dispose his own time and make his official arrangements as may conduce to their comfort, and make their work light The practice of frequently imposing fines for trivial offences cannot be too strongly deprecated * It affords an excuse for dishonesty, and for that cause often fails to have any effect. Errors of judgment should never be so punished, and corrupt or dishonest actions deserve a very different punishment, and cannot be thus either appropriately or beneficially noticed. In cases of neglect or disobedience of orders, the imposition of a fine may be salutary, but it should be moderate in amount—the offence should be undoubted, and generally the first transgression of the kind can more appropriately be noticed by recorded reproof and warning.

24. Great care should be taken to maintain the respectability of the Tahsíldárs. They should be selected with discrimination and after enquiry into the goodness of their character, as well as their official capacity. They should always be received and treated with consideration, and confidentially consulted, as far as conveniently practicable, on all subjects connected with the districts entrusted to their charge. Reproof or censure, when necessary, should be given privately rather than publicly; and, so long as they are allowed to retain office, they should be treated with the

* *Heavy fines imposed upon native officers, whose allowances are barely, if at all, sufficient for their subsistence, must have the effect of driving them to acts of corruption and extortion, and the disregard of their just rights and reasonable feelings by their official superiors must degrade them in their own estimation, and in that of the public, and must deter men of respectable character from holding situations in which they are exposed to such hardship and disgrace.—Para 17 of Dispatch of the Hon'ble Court of Directors, No. 20, dated 21st August* 1844.

The power of fining belongs to the Deputy Commissioner in his executive capacity, and is subject to appeal to the Commissioner. The fine operates as deduction from pay, and can be imposed by the same authority which has the power of dismissing the subordinate. If the latter objects to pay it, he can resign his appointment, and receive the pay due to him in full.

confidence and respect which is due to their high station. The occasions are very rare in which the imposition of a fine upon a Tahsíldár is advisable or even justifiable.*

25. Frequent and unreserved intercourse with all classes of the community is most necessary for the efficient performance of a Collector's duties. Nothing tends more to promote this than the habit of constantly moving about the district during the cold season. The work which must necessarily be performed at the district head-quarters should be so arranged as to leave the Collector free to move about the interior of his district for a considerable portion of the year, and the cold season, when this is practicable, should be diligently employed for the acquisition of that knowledge of the country and of the people which is indispensable for the full comprehension of many questions which must come before him for decision. A friendly and conciliatory demeanour towards the people should particularly be studied. The public officer who comes amongst them, not only as possessed of higher moral principle and of superior education and intelligence, but also as their friend, sympathizing with them in their misfortunes and studious of their best interests, will always find them meet him with gratitude and ready obedience.

26. The Collectors and their subordinates are always invested, in this as in the North-Western Provinces, with magisterial powers. The influence and the opportunity of beneficial exertion which results from this are great. It is essential to the advancement of the great interests entrusted to the Collector that complete security of life and property should exist throughout the district. It is essential to the development of industry that all lawless violence be repressed, and so repressed as least to interfere with the comfort and welfare of the peaceful and well-disposed. The strong establishments in the Revenue Department may be made the efficient agents for strengthening and regulating the Police; and the Magistrate, in the discharge of his duties as Collector, will have

*The appointment and removal of Tahsíldárs and Náib-Tahsíldárs in the Punjab is regulated by Section 4 of the Punjab Land Revenue Act, 1871, and by rules issued by the Financial Commissioner with the sanction of the Local Government (See Appendix No. II), they may be removed from office with the previous sanction of the Financial Commissioner; and where the imposition of a fine by executive order may appear an appropriate penalty for any neglect or misconduct, it may be inflicted with the same sanction as a milder alternative than removal. The power formerly vested in the Deputy Commissioners of fining Tahsíldárs, subject to report to the Commissioner, no longer exists.

opened out to him channels of information and sources of influence, which, when duly improved, cannot fail to exercise almost beneficial effect.

27. Nothing can pass in the district of which it is not the duty of the Collector to keep himself informed, and to watch the operation. The vicissitudes of trade, the state of the currency, the administration of Civil Justice, the progress of public works, must all affect most materially the interests of the classes of whom he is the constituted guardian. Officious interference in matters beyond his immediate control must be avoided, but temperate and intelligent remonstrance against anything which he sees to be wrong is one of his most important duties.

28 Having premised thus much as to the general position and responsibilities of a Collector, it is time to proceed to a consideration of his particular functions, as already enumerated in paragraph 6

SECTION II—*The Collection of the Government Revenue.*

29 The Land Revenue is the great source of the income of Government in India. The powers and means necessary for its collection render it convenient to entrust to the same hands the management of other branches of Inland Revenue, such as the ábkárí, *i. e.*, the excise on spirituous liquors and the stamp revenue. The rules under which the Land Revenue is collected first require notice.

30. According to the constitution of India,* the Government has a right to a portion of all produce of the soil, unless that right be alienated by a special grant. It follows that Government holds a lien upon this produce and can insist upon the satisfaction of its demand before the crop is removed from the ground. This principle was at first adopted and acted upon by the British Government. The instalments of the public demand were so timed that they fell due before the crop, from which they were to be liquidated, could be cut. The Collector and Tahsíldárs were empowered † to place watchmen over the crops, so as to prevent their removal before the Government demand had been paid or security furnished for its ultimate payment. The hardship and impolicy of thus forestalling, as it were,

* See Preamble to Act XXXIII of 1871.
† See Clause 12, Section 2, Regulation XXVII, 1803.

the revenues of the country are evident. The system was the rude device of a state of society where there was little security for life or property, and where property had consequently lost its right value.

31. In the year 1840-41 this system was altered The number of instalments was reduced to four, which were so timed as to fall due after the crop from which they were to be paid had been harvested. The lien for the current revenue on the growing crop was thus abandoned; and if it was not paid when due, it became necessary to resort to other means of enforcing payment This change was introduced in the North-Western Provinces about the time that the first Regular Settlement was completed, and was found to work well wherever the assessment was moderate and the state of the agricultural population flourishing *

[When the Punjab came under British administration, the dates of the instalments according to which the Land Revenue was to be paid were fixed upon the principle which had thus been adopted in the North-Western Provinces, so as to give the cultivators time to dispose of their crops. The number and dates of the instalments vary in different districts with reference to local peculiarities, and may be varied by order of the Local Government]

32 It is important to remember that the lien of Government upon the produce is only abandoned whilst there is no balance against the estate. It is in the power of all, by punctual payment of the Government demand, to secure themselves against the enforcement of this lien. But if the Land Revenue is allowed to fall into arrear, it may be had recourse to as one of the modes of compelling payment.

33. The lien for the current revenue upon the growing crop being thus abandoned, it is of importance to consider what modes of realizing the public revenue are open to a Collector, and what are the considerations which should influence him in having recourse to each.

34. So long as the Government revenue is punctually paid, it is most important that the Collector, as a fiscal officer, should abstain from all interference with the mahal. The great

* Abridged from para. 31 of the North-Western Provinces Edition.

desire and object of the Government is to teach the people self-government. They should be instructed and encouraged to manage their own affairs, and, by punctual payment of the Government demand, to bar all direct interference on the part of the fiscal officers of the Government.

35. But when once default occurs, it is the duty of the Collector to exert himself with promptitude and vigour. The first step is to ascertain the cause of the default For this purpose all the means and appliances of his powerful establishment must be put in requisition to lay bare the real state of the case The truth cannot be concealed from the person who knows his power, and is willing to exert it.

36. Default arises from deficiency of assets or from embezzlement of the proceeds which should have been appropriated to the liquidation of the Government demand. The former, in ordinary cases, is beyond the control of the málguzár, and is a misfortune deserving consideration. The latter arises from the improvidence or the perverseness of the málguzár, and is more or less culpable according to the circumstances which occasion it.

37 Deficiency of assets sometimes arises from wilful deterioration of the estate and neglect of cultivation. If this is only a mode in which ignorant men resist oppression and injustice, it may require some consideration. But if it be the mere contumacious resistance of lawless rebels to the constituted authority of the State, it must be visited with the utmost severity which the law admits If the defaulters endeavour to deter others, either by threats or violence, from cultivating the land which they refuse to cultivate themselves, the provisions of the criminal law must be enforced against them No anxiety to lessen his existing balance, no reluctance to show on his papers a temporary financial deficiency, no aversion to the patient and painful course of proceeding which it involves, should deter a Collector from boldly facing a clear case of opposition of this kind. The effectual punishment, at any loss, of such misconduct is a moral lesson to the whole district, which cannot but result in the promotion of industry in other classes, and the security of the just rights of the Government.

38. In general, however, deficiency of assets arises from calamity of seasons, either want of rain, or floods, or

blight, or locusts, or hail,* &c. The greatest care must be taken to ascertain with promptitude the extent of the loss, as soon as possible after it is alleged to have occurred,† [as after the crops have been removed, it is almost impossible to do this in a satisfactory manner.] The destruction of the crop may have been so complete as not to leave sufficient for the support of the people and payment of the demand, in which case the málguzár must pay from other sources or borrow, or the property must pass into other hands. In such a case it will be for consideration whether measures should be adopted for compelling such a result, or whether the relaxation of the demand would be just and politic. In weighing this it must be remembered that the principle of the assessment has been to fix a moderate average demand for a long course of years. The Government agrees to relinquish the excess in a good year, and it is fair to expect that the deficiency of a bad year should be made good from the accumulated surplus of past or the anticipated surplus of coming years. If, therefore, the property is fairly assessed, and the málguzár possessed of good means, it may be right to press for immediate payment, notwithstanding acknowledged deficiency of assets. If it seems right to relax the demand of the State, it must then be decided how this relaxation should have effect, whether as a suspension of demand or a remission of balance.

39. The demand may be suspended under authority of the Commissioner ‡ or Financial Commissioner, and this relief will often be sufficient and effectual when the estate is valuable, the calamity unusual, and the proprietor industrious and frugal. To render it effectual, an engagement should be taken from the proprietor, with or without security, for repayment of the balance by instalments.

40. If, however, it be decided that the balance cannot be hereafter realized without too hardly taxing the industry of the málguzár, or permanently affecting the resources from which the future demand is to be paid, suspension of the demand is merely preliminary to remission of the balance, for which the

* In Financial Commissioner's Circular No. 28 of 1855 it was pointed out that, as a general rule, hailstorms are found to travel in a straight line or with a slight curve, and the width of the tract affected is not considerable. This greatly facilitates the checking of the reports received, as with the aid of a map the Deputy Commissioner can detect the points in regard to which they appear to be erroneous, and have these again tested.

† The procedure in such cases it prescribed in Nos. 8 and 9 of the rules made by the Local Government under Section 65 of the Punjab Land Revenue Act, 1871.

‡ Rules under Act XXXIII of 1871, Section 65, No. 5.

sanction of the Financial Commissioner* must be obtained. If a remission be granted, care must be taken to determine in whose favour it is made. If this precaution be omitted, the mere remission of a balance due from an estate held by a large coparcenary body may be the cause of much dissension amongst them.

41. [It is not a matter of course that relief should be given in proportion to the extent of the loss sustained. It is necessary to show that due consideration has been given both to the circumstances of the estate and to the character and extent of the calamity,† and that the relief is really called for. A mere suspension of demand is never advisable, unless there is a fair prospect of the proprietors being able to liquidate it by instalments extending over a reasonable period in addition to paying the current revenue. If remission is recommended, it will not be enough to allege that the balance is irrecoverable, or that the assets are deficient] The Collector must explain the cause of the alleged deficiency of assets, the means he took for satisfying himself of its reality and extent, and the reasons why he considers the proposed remission of the demand expedient.

42. (43). The above remarks apply to ordinary and casual instances of default. When a general famine prevails, arising from continued drought or any other extensive visitation of providence, extraordinary measures evidently become necessary, and the Government interposes its authority to suspend the ordinary course of proceeding. Drought is the most common scourge of the country. In order to judge of its degree, all Tahsíldárs have been furnished with rain-gauges of a simple construction [Appendix No. III]. Care must be taken to instruct the men in the use of the instrument, and to obtain from them accurate and trustworthy registers.

43. (44). Much may be done towards diminishing the effect of famines by artificial irrigation from wells, reservoirs, or canals, by improved modes of agriculture, and by the promotion of thrifty habits, which are the natural result of good government. When complaints of bad seasons and ruined crops are frequent, there is much reason to suspect some mis-government. A prudent Collector will not close his ears to such complaints. He will hear all that is said, examine for himself, and draw

* Rules under Section 65, Act XXXIII of 1871, No. 7.
† Ib. Rule 9.

his own conclusions But he will not give too easy credence to every assertion of the kind, or be led away by a weak facility of disposition to encourage such excuses, by lightly altering his measures on the assumption of their validity. Discrimination and firmness, as well as kindness and consideration, are necessary for the good government of the people.

44. (42). It may be that the original assessment was so severe, or that the estate has become so much deteriorated, that it is impossible to maintain the former assessment. Revision of settlement and reduction of jama then become necessary, but these should not be entered upon without the authority of the Government It is seldom, except in some case which has been otherwise provided for, such as encroachment of a river, or occupation of land for public purposes, that this proposal can be justified without previous endeavours to realize the demand by all legal means. Such a case may, however, be conceived, and therefore the proposal is mentioned. It must be remembered that the Government jama is not a mere fixed fraction of the produce, to which the demand must be lowered whenever it can be shown that the produce has fallen below the originally assumed amount Such a supposition would be injurious to the Government, and tend to check the industry of the cultivators. The settlement is a contract between the Government and the proprietors, and in its nature is equally binding upon both Nothing can require that the fixed demand of the Government should be increased during the currency of a settlement, and its reduction can only be recommended on those general principles of policy and humanity which regulate all fiscal arrangements. For mode of reporting revisions of assessment, see Appendix No. IV.

45. (48). The other frequent cause of default is embezzlement of proceeds. The right of the Government to a certain portion of all produce of the soil being held to be prior to all other rights, it follows that, till its satisfaction, the net produce of an estate is a trust in the hands of the proprietor, and that a failure to surrender the trust is in itself an act of dishonesty.

46. (49) It follows, as a natural deduction from this doctrine, that the person who makes the collections in an estate paying revenue to Government is personally responsible for as much as he can be proved to have collected, whether or not he be the rightful owner of the estate. It also follows that collections which can be proved to have been made from any lands withs

out due authority, for instance, by the heirs of a life assignee of the revenue, can be recovered retrospectively.*

47. (50) Misappropriation of assets and refusal to account for them is sometimes wilful, and accompanied either by flight † or by open resistance to authority, in which case it must be dealt with in the same way as all other contumacious acts, as already noticed in paragraph 37. Contumacious refusal to pay (*sharárat wa nadahindagí*) is, however, so often alleged as the cause of default, that it may be useful to examine the subject a little more at length.

48. (51) This explanation of the case is frequently given by Tahsíldárs and other native Revenue officers when called upon to account for a balance, and the reasons for giving this reply are evident, for it involves no enquiry or proof, and it justifies the severest coercive measures. These are the very reasons why it should be received with the greatest caution. It is not in itself probable that small proprietors living peaceably and comfortably upon their lands would lightly or heedlessly imperil their possessions, and expose themselves to all manner of official annoyances. It is most probable that they would pay the demand if they had the money at hand, and that the omission to pay results from some cause which presses upon them more heavily than the fiscal process issued against them. Under the present system, and amongst a thoughtless improvident people, it is not improbable that the money realized from their produce had been taken by their creditors, or spent by themselves, before the Government instalment was due, and that when the demand was made upon them, they had nothing to meet it. In despair they probably evaded process, and either concealed themselves or fled the country with the little property they possessed. In such a

* Cust's Punjab Land Revenue Manual, page. 43.

† The following remarks made by the Hon'ble the Court of Directors in a Despatch dated 27th May 1835, on the subject of claims for the surrender of revenue defaulters taking refuge in Native States, are worthy of attention —

90. "We have, on former occasions, intimated to you our opinion that except under peculiar circumstances, it is no less unadvisable to claim from other States our own revenue defaulters than to surrender theirs. We consider the abandonment of their native villages by the established cultivators as a sure indication of over-assessment, or of oppression demanding the early interference of the local European authorities.

91. "The non-surrender of revenue defaulters is, in point of fact, a check against the continuance for any long period of such over-assessment and oppression."

case the landed property is answerable for the balance, and every effort should be made to farm the land. But it may happen that the cultivating population is scanty, that capitalists cannot be found to take the estate, or that the combination amongst those of the same clan with the defaulters is so strong as to deter purchasers from coming forward The difficulty is then great; and in no cases are the local influence and fertility of resource of the Collector more severely tried The main object must be so to coerce the defaulters as to make it evident to all that the true policy of a proprietor is to be punctual in his payments In proportion as this is effected, and the agency which he selects for dealing with the case is good, and the police is strong, instances of the kind will be of rare occurrence and easy remedy Recourse to direct management, for a time at least, will probably have to be made, and this will only answer its purpose when exercised with great knowledge of the people, and with unremitting attention to duty

49 (52) Embezzlement or misappropriation of assets generally results from the pecuniary embarrassment of the person settled with, or from disputes among the several members of the community The two causes are distinct, and require different treatment.

50. (53). When one of the persons settled with is bankrupt, and there appears no hope of his recovering himself, no hesitation should exist in immediately transferring his share to a solvent coparcener When his property is about to pass from him in satisfaction of the claims of his creditors, he will naturally cease to be anxious to save it from attachment for arrears due to Government. He will secure for himself what he can from the wreck, and will leave the Government and his creditors to get what they can for themselves. The transfer must therefore be so timed as to prevent the bankrupt from appropriating the value of the crops then standing, and immediately, on the first occurrence of default, the property should be attached to prevent waste, and to secure any assets that may be then available.

51. (54). Quarrels amongst the several members of the community are the fertile source of default, and require much judgment in dealing with them. It has been already stated in paragraph 3, that all the members of the community are jointly responsible for the whole sum assessed upon a mehal. In another treatise (Directions for Settlement Officers, paras. 99—114,)

an attempt has been made to explain in what way the several members of these communities are bound together, and how they account to each other for their respective shares. The settlement record and the annual patwáris' papers will show the nature of the tenure, and the names of the proprietors. It is most desirable that every exertion should be first made to realize from the individual defaulter the balance he has failed to pay; but if this effort be unavailing, it is then important that the whole community be made to feel the strength of the bond which unites them, and the necessity of common exertion for the safety of the whole. This tie cannot be weakened without altering the whole frame-work of the community, and introducing a new state of society. If the separate responsibility be disregarded, great injustice is done, and an extensive alienation of property by public sales must take place. If the joint responsibility be disregarded, a revision of the whole settlement must take place. A separate allotment of revenue demand on every petty holding must be made, and the A'sámíwár or Ryotwár system be introduced, with all the inconveniences and risks to which it is liable, especially amongst a people who are unaccustomed to it.

52. (55.) [Section 35 of the Punjab Land Revenue Act, 1871, enables the Collector to enforce either the joint or the several responsibility.] He can proceed against each individual defaulter in a community in the same way as against the village headman,* and every effort should be made to realize the balance from the individual before the demand is pressed upon the community.

53. (56.) [It may happen that the individual defaulter disputes the correctness of the statement of the village headmen as to his liability.] He may plead that the extent of his property is wrongly stated, or that the rate of distribution of the assessment (*báchh*) is wrongly adjusted, or that the properties are not so distinct as to render him primarily responsible for the arrear. Any such plea must be heard and carefully weighed [before the Collector finally decides either to enforce the demand against the individual, or to fall back upon the joint responsibility of the community.]

54. (57). If the joint estate is zamíndárí (para. 102 Directions for Settlement Officers), and the collections are made by the

* See also No. 8 of the Rules for the Recovery of Arrears of Revenue made under the Act.

village headman on behalf of the proprietary community, it may be objected that the village headman has not rendered a faithful account so far as the interests of the defaulter are concerned. If this be proved, his several responsibility should not be enforced. If, on the other hand, it appear that the defaulter was a party to the annual adjustment of accounts (*bujhárat*), assented to it, and received his portion of the profits, which he subsequently embezzled, then the separation of properties for the year will have been complete, and the separate responsibility may be enforced.

55. (58). If there be no question as to the separate responsibility of the defaulting patti or proprietors, still all efforts to realize the balance from the individual defaulters may be ineffectual. They may have suffered their lands to fall out of cultivation, they may be bankrupt, or they may have absconded. In such cases it becomes necessary to fall back upon the joint responsibility of the whole community. It must be ascertained what is the village rule for making good default of this kind,—as for instance, by redistribution of the balance on the shares of the solvent proprietors, or by transfer to some coparceners or patti able to pay up the balance and take the land. They must be called upon to act on this rule; and in the event of any or all refusing to comply with it, the recusants or the whole must be dealt with as defaulters. This *holds the community together, and compels them to put forth* that united exertion which is the principal feature of the tenure. It follows, as a natural consequence, that the Collector should abstain from any act, such as either partial annulment of lease and farming, or direct management, or purchase by Government of the defaulting patti, which would throw upon the Government the responsibility for a share of an undivided estate. If this distinction be not observed, there will be great opening left for fraud of all kinds.

56. (59). The cause of default being ascertained, the Collector has open to him several legal methods of procedure for realizing the demand. No fixed rule can be laid down to guide him in the course he should follow. The law has allowed an option, and he must not shrink from the labour or responsibility of determining how he is to exercise the discretionary power with which he is invested. The object is to realize the balance with the greatest rapidity and facility, and with the least possible degree of annoyance or expense to the defaulter.

57. (60). Some of the processes are directed against the estate itself on which the balance has arisen, and some against

the person or other property, real or personal, of the defaulter. The former rest upon the principle that every estate is hypothecated to Government for the revenue assessed upon it, and to proceed against the estate can never therefore be illegal, however inexpedient or impolitic it may be. Whatever successions or transfers may have taken place, an estate may always be sold for an outstanding balance, or the settlement may be annulled, and the estate be farmed or sequestrated.

58 (61) It will be useful to describe the several methods of procedure open to the Collector, and to point out some of the most useful principles that should guide him in the exercise of his discretion

59 (62) The processes recognized by law * for the recovery of arrears of revenue due to Government are the following :—

I Issue of warrant ;

II. Personal imprisonment ,

III. Distraint and sale of movable property ;

IV Attachment of the land and sequestration of profits ;

V. Transfer of the defaulter's share to solvent co-sharers

VI. Cancelment of the settlement of the estate or recognized subdivision of an estate, and managing it by an agent, or letting it in farm ,

VII. Attachment of the defaulter's interest in other land, and sequestration of profits ;

VIII. Sale of the land in respect of which the arrear has accrued, or of any portion of it ;

IX. Sale of the defaulter's interest in any house or land other than that in respect of which the arrear has accrued.

60. *I. Warrants.*—The warrant † is at once a precept ordering the defaulter to pay the amount due within a specified time, and an authority given to an officer named therein, empowering him to bring up the defaulter to the tahsil on a specified date, if he fail to pay the arrear within the time

* Act XXXIII of 1871, Chapter V, and Rules under Section 66 for the Recovery of Arrears of Revenue.

† Act XXXIII of 1871, Section 43.

allowed him for the purpose. The order is generally addressed to the village headman, through whom the revenue is ordinarily paid by the proprietors whom he represents, but it may be addressed to any individual defaulter who has failed to pay his proportion of the revenue when due. It is issued at the expense of the person to whom it is addressed The Tahsíldár should keep a list of the villages, showing the demand upon each, before him at the time when any instalment of the revenue falls due, and should note in this with his own hand the progress of the collections, and take immediate measures for the recovery of arrears.

61. (64). [Until the time allowed for liquidating the arrear has expired, the warrant operates simply as a notice to pay. If payment be not made within the prescribed time, it enables the officer named in it to bring the person or persons to whom it is addressed before the Tahsíldár. The same warrant may be addressed to any number of the proprietors of the estate on which the arrear is due, upon whom it can conveniently be served by the messenger] One use of this process is to elicit a full discovery of the causes of the default if not previously known ; but even if the defaulters abscond, the real cause of default may generally be ascertained without difficulty from the patwárí or kánúngo, or from other sources within the reach of the Tahsíldár The Tahsíldár ought in fact to be so well acquainted with the affairs of his subdivision as to know before hand how and where default is likely to occur. He must know whether the crops have been abundant or not, and whether the proprietors are in prosperous or embarrassed circumstances ; he must know whether the members of the village community are in harmony or at discord with each other ;* and he must know the general character of every village headman for punctuality and honesty. With this knowledge he should be prepared, if a defaulter fails to pay within the term allowed by the warrant, or if, when he is brought up to the tahsíl, he does not make satisfactory arrangements for meeting the demand, to make an immediate report of the whole circumstances to the Collector, with his opinion as to the course which should be pursued, and the reasons for his recommendation. The Collector should

* Mr. Cust suggests that where difficulty in collecting the revenue in large communities arises from the mutual distrust of the coparceners, the Tahsíldár or his Náib should proceed to the village, summon the community, and order the collections to be made in his presence by the headman.—*Panjab Revenue Manual, p.* 149.

require this detail to be furnished to him with the greatest promptitude On receiving it he should at once proceed with such assistance as the records of his office, his personal knowledge of the case, or the other means of enquiry which are open to him, may afford, to make up his mind as to the cause of the default, fix on the proper mode of proceeding, and follow it out with no greater delay than the law requires *

62. (65) Warrants must not be issued unnecessarily, so as to bring a useless charge upon the defaulter The collections should be made mehálwár, not mauzawár. When several villages, separately assessed and settled, belong to one proprietor or body of proprietors, they should be treated as one estate, and a single warrant may suffice If the defaulter's appearance be apparently unattainable, it is by no means necessary that a warrant be issued at all If a balance lies over from a former instalment when a new instalment falls due, or if the defaulter be notoriously bankrupt or determined not to pay, it may be better to avoid the issue of a warrant, thereby preventing the additional charge on the estate, and saving the time which would be lost by awaiting the result of the issue (See Appendix No V for the statements prescribed for the regulation of the issue of warrants, and the collection and expenditure of talabánah charges)

63 (67). *II—Personal Imprisonment*—[A defaulter, brought up before the Tahsíldár under a warrant issued for the recovery of an arrear due from him, may, if he fail to satisfy the demand, be detained under personal restraint at the tahsíl for ten days, if the Tahsíldár has been authorized by the Deputy Commissioner to exercise this power, and, if the Tahsíldár has not been so authorized, may, by order of the Deputy Commissioner, be conveyed to the district headquarters, and be detained there under personal restraint for a similar period At the expiration of this term, if the arrears be not paid, the Deputy Commissioner may, unless good reason for the delay is shown, order him to be confined as a civil prisoner for such period, not exceeding one year, as he thinks

* "Delay on the part of the Deputy Commissioner is quite inexcusable. The 15 days' report and monthly tauzi show the exact balances, and not only should these be carefully examined by the Deputy Commissioner, but when one month has elapsed from the last instalment of the harvest, the Tahsíldár should make a separate report of every balance, that measures may be at once taken Non-payment should be followed by immediate enquiry; the Deputy Commissioner should satisfy himself of the process which ought to be adopted, and within six weeks the report should be before the Financial Commissioner for sanction."—*Financial Commissioner's Book Circular No. 26 of 1860, para. 15.*

fit. If the amount of the arrear be paid, or be recovered by distraint and sale of moveable property, or if any process be enforced against the land while the defaulter is so confined, he will be entitled to be immediately discharged.] No person is liable to imprisonment except for a balance due from him, or some shareholder whom he represents. An heir, or assignee, or agent, cannot be imprisoned for the default of the person from whom he derives his title or his powers. [The diet-money of the defaulter will be advanced by the Deputy Commissioner, and recovered as part of the arrear. If irrecoverable, the sanction of the Commissioner must be obtained to write it off.]

64. (68). It is only in peculiar cases that the process of imprisonment is likely to be effective. When the defaulter is living in circumstances which make him fear imprisonment, and when he has resources which enable him at once to pay the demand, there may be no more efficient process. But on the poor or the embarrassed, it is not likely to have any effect, whilst to the unfortunate but honest and industrious man it is a cruel hardship.

65. *III—Distraint and sale of moveable property*—[On the expiration of the term of detention under personal restraint at the tahsíl or the head-quarters of the district, the Deputy Commissioner may also order the distraint and sale of the moveable property of the defaulter, with the exception of implements of husbandry, cattle actually employed in agriculture, and the tools of artizans. Such order may either accompany an order for the imprisonment of the defaulter, or may be passed without directing him to be imprisoned.* Care should be taken that the distraint and sale are conducted according to law.]

66. (70). This process is liable to very much the same objection as the preceding. The usual defaulters are small landed proprietors, whose personal property is of little value to any but themselves, and is easily removed. If it is distrained and sold, little is thereby realized, whilst they are greatly harassed and injured. If, however, the defaulter be in good circumstances, and wilfully withholds payment of the just claim of Government, there cannot perhaps be a better mode of proceeding than to distrain at once the most valuable articles of his private property. This course should be followed only when there is good reason to suppose that it will be the means

* Punjab Land Revenue Act, 1871, Section 43.

of compelling payment of the whole or a considerable portion of the arrear.

67 (72) *IV. Attachment of the land and sequestration of profits (Kurk Tahsíl)*—[If the assessments are moderate, the land is the best security for the revenue The various processes which may be taken against the land will now be described The attachment of the land, in respect of which the arrear has become due, and appointment of an agent to manage it and receive the rents and profits, may be resorted to, either as a means of recovering the arrear, where there is a prospect of its being speedily realized by this process, or to prevent waste, pending the adoption of further process against the land Before a farm or sale can be effected the previous sanction of the Financial Commissioner is necessary, and when that has been obtained,] some time must elapse before the farm or sale can be completed, and occasionally time may be necessarily consumed, even in making the preliminary enquiries into the cause of default In these cases attachment is necessary to prevent the defaulters from carrying off, and appropriating to their own use, the proceeds of the estate In ordinary cases the person appointed to take charge of the estate on the part of Government should be the Tahsíldár; but if it is large, or requires particular care a separate agent (*sazáwal*) should be appointed, and paid either by a percentage on the collections, or by a fixed salary [*If the attachment continue in force for* six months, it must be reported to the Financial Commissioner]

68 (73). The Tahsíldár or other agent appointed to manage the estate stands for all purposes in the position of the defaulting proprietor, [and is placed in the same relation to subordinate proprietors, or tenants, with or without rights of occupancy, and receives all rents and profits until the arrears due are satisfied, or the proprietor is restored to the management by order of the Deputy Commissioner, or the land is temporarily or permanently transferred on account of the arrears due* If the land was attached for the default of the village head-man in a community of cultivating proprietors, such agent is placed for the time in the position of the village head-man, and realizes the arrear, the current revenue, and the village expenses, including his own authorized remuneration, from the proprietors and tenants in the same way in which, according to the custom of the village, such collections might have been made by the village head-man.*] This power may evidently be exerted with great advantage in cases of default

* Punjab Land Revenue Act, 1871, Section 46.

arising from disputes amongst the community, which prevent them from auditing the accounts of the year and distributing the burthen on each man's land. The officer of Government does that by authority which the village lambardár was unable by himself to do. By the adoption of this process in case of default, that lien upon the crop which the Government originally possessed, and only waived as regarded the current revenue, is immediately revived in the person of the Government officer who is the representative of the owner Wherever, therefore, the estate is valuable, the risk to the Government which results from the postponement of the dates of the instalments (already mentioned in paragraph 28), extends only to the instalments for one crop. The produce of that crop may be embezzled and made away with, but the existence of the balance places it at once in the Collector's power to realise the demand in future from the growing crops till the balance is liquidated.

69. (74). Whenever an estate is attached, the greatest promptitude is necessary in ascertaining from the patwárí the extent of cultivation and the liabilities of each man. The settlement papers and the patwárí's annual papers should materially aid in this, and the Collector should not be unmindful that every such attachment gives him a valuable opportunity for testing and, if need be, correcting these records. If the attachment take place at the commencement of the agricultural year, that is, before the commencement of the rainy season, it will devolve on the Government officer to make the arrangements for the cultivation in the coming year. This is a difficult undertaking, requiring much knowledge of the country and the people. Good agents should be chosen for its performance, and those agents should be well directed. Every effort should be made to secure the assistance and co-operation of the proprietors in its performance.

70. (75). It must further be remembered that all collections made during attachment must be appropriated to the payment of the current instalments, and no portion devoted to the liquidation of the balance till the current instalments are entirely made good. Thus, when the attachment takes place before the rabí crops are cut, in consequence of failure to pay the kharíf balances, the collections must be credited to the coming rabí instalment, and not to the past kharíf instalments. Otherwise it is evident that when the attachment is

removed, the proprietor will be left with a demand against him, and no means of paying it.

71. (76) On releasing the property from attachment, an account should be faithfully rendered of all the collections from the land. When this has been rendered, and the acquittance of the proprietor has been filed, the estate of course remains liable for any outstanding balances which were not excepted at the time of adjustment.

72. (81). *V. Transfer of the defaulter's share to solvent co-sharers*.—When one or more persons, possessed of separate holdings in a co-parcenary tenure, find themselves involved in pecuniary difficulties, it is an ordinary practice for them to make over their proprietary rights for a time to another shareholder or body of shareholders, and either to go elsewhere to seek their fortunes, or else to remain resident in the village, but divested of their character as proprietors. The law enables the Collector to avail himself of this custom, and to compel its enforcement whenever a member of the community defaults and fails voluntarily to extricate himself from his difficulties in this manner. The property of the defaulter is transferred to a co-sharer on payment of the balance by the transferree. The transfer may be in perpetuity or till payment of the balance, which has led to the enforced transfer. A transfer in perpetuity is equivalent to an enforced sale, [and this will rarely be necessary or desirable * If the transfer be made until the arrear is repaid, the transferrees may claim to have the transfer made absolute after twelve years have elapsed, and on their making such claim, a notification will be published allowing the defaulter one year's grace for the repayment of the arrear; and if he fail to repay it within that time, the transfer will become absolute.† The value of the land may often be such that it may appear equitable to require the transferrees, in addition to any allowance ordered to be made to the dispossessed proprietors, to credit a fixed annual amount towards the repayment of the arrear‡, and such an arrangement will be facilitated if the dispossessed proprietor agrees to the transfer being made for a fixed term of years, during which he shall not claim to redeem, and after which the land shall be

* Where a particular pattidár has been an habitual defaulter, and a hindrance to the prosperity of the estate and good management of the other pattidárs, his exclusion in perpetuity and permanent transfer of his share may be recommended. Circular Order, S. B. R., North-West Provinces, No. II, para. 104.

† Punjab Land Revenue Act, Section 48.

‡ Rules for the Recovery of Arrears, No. 18.

restored to him, and released from further liability for the arrear.]

73. (82). When a part only of the joint proprietors default, recourse should always, if possible, be had to transfer to solvent co-sharers as far preferable to farm to a stranger. The Deputy Commissioner should invite their tenders, and should explain to them the advantages of thus preventing the intrusion of strangers into the estate, or the enforcement of their joint responsibility. The process of transfer rests for its foundation on the joint responsibility of the whole community; [and if several of the proprietors make separate tenders for the land on the terms approved by the Deputy Commissioner, the priority is given to the person who in case of sale would be entitled to the right of pre-emption] If none of the proprietors tender, mortgagees or others having incumbrances on the land to be transferred may accept the transfer, and, while it continues in force, will hold the position of the excluded proprietor in the community] The joint responsibility of the proprietors is in no wise weakened by the enforcement of this process. The whole estate is still responsible for the revenue assessed upon it; and if the transferree should himself become a defaulter, the transferred land is as liable to sale as any other part of the estate, consequently no collateral security is necessary. It also results from the nature of the transaction that the transferree's interest is both heritable and transferable.

74. (83). Provision must be made for the excluded proprietors under Section [53 of the Punjab Land Revenue Act, 1871. The provision contemplated by the Act is in the form of a percentage on the rent of the land; but if the excluded proprietors, are allowed to remain in possession as cultivators, it may take the shape of a deduction from the rent payable by them, or of terms otherwise favourable. A report of the transfer to the Financial Commissioner is prescribed by the rules made under the Act.] and this should be made in the form given in Appendix No. VI, which, it will be observed, contains a column showing the provision made for the excluded proprietors.

75. (84). VI. *Cancelment of the settlement, and management of the land by an agent, or letting it in farm.*— [If an arrear remains unpaid for more than one month, and the Deputy Commissioner is of opinion that the estate or recognized subdivision of an estate upon which it is due should be brought under direct management for a term of years, or let

* Punjab Land Revenue Act, Section 47. † Ib, Section 49.

in farm, he may report the case * to the Financial Commissioner, explaining the reasons for the course which he proposes; and if the Financial Commissioner consents to that course being adopted, he may publish a notification that, unless the arrear is paid within fifteen days, the settlement of the estate or subdivision of an estate, and all contracts affecting it made by the defaulter or any person through whom he claims, will be cancelled.† On the expiration of fifteen days from the date of the notification, the settlement is annulled, and the course sanctioned by the Financial Commissioner may be adopted.] This process is a milder means of coercion than sale, and ought ordinarily to be had recourse to in preference to sale. [Whether an agent is appointed to manage the land, or it is held in farm by a person who is not a member of the village community, it cannot be sold for any arrear which may accrue during the period for which it is so managed or held in farm‡.]

76. (71 & 80).—Temporary attachment, with an account of the profits on removal of the attachment (*Kurk Tahsíl, vide* para 67) must be distinguished from annulment of the settlement followed by direct management (*Khám Tahsíl*). The prohibition of sale for arrears accruing while under attachment, however, applies to both, and in both cases, therefore, care is necessary, as well in having recourse to the process as in acting under it. In both cases the Government officer who is charged with the management of the attached estate exercises all the powers of the proprietor in regard to the property, but, while in the case of kurk tahsíl, he is bound by all the obligations which the proprietor has legally incurred, and can demand no more from the joint proprietors than the village custom warrants, or from tenants or mortgagees holding at low rates than the original proprietor was able to demand, in khám tahsíl; on the contrary, all the proprietary rights and obligations of the owners of the property are for the time in abeyance. The Government officer in charge of the estate collects from all the cultivators the full rents of their lands, notwithstanding any engagements to the contrary into which the proprietors may have entered, or any privileges which they may possess in virtue of their rights of ownership. He is for the time being in the position which would be occupied by a person who had farmed or purchased the estate on account of

* For forms of report, &c, *vide* Appendices. No. VII and VIII.

† Such cancelment, however, will not affect any interest in the estate which existed at the date of the last previous settlement, possessed by any person other than the defaulter or his representatives. Act XXXIII of 1871, Section 52.

‡ Ib, Section 56.

arrears of revenue. It must also be remembered on release from khám tahsíl, that annulment of the previous settlement had been preliminary to the direct management, and that re-settlement is therefore necessary. New engagements must be taken from the parties admitted as proprietors, and the opportunity should be seized for adjusting all the points which are open to adjustment on the formation of a new settlement.

77. (78). When land is valuable, population abundant, and the assets of the estate consist of money collections from non-proprietary cultivators, and the rent-roll shows a fair surplus above the Government demand, there should be no hesitation in holding khám. Ordinary care will enable the Collector to recover the balance and probably improve the estate. But when the population is scanty, when the defaulters are a community of cultivating proprietors, when the collections are made in kind or when the estate is deteriorated and fallen out of cultivation, khám management requires much caution. Its success evidently depends upon knowledge of agriculture, influence over the people and prompt and steady action. When the Collector is conscious that he possesses these qualities himself, or can command them through means of his subordinates, he has the strongest possible hold on the people. Nothing convinces them more of the hopelessness of attempting by combination to defraud the Government of its dues, or to force a reduction of settlement, than the example of a few estates successfully held khám, and made to yield more than the original assessment. With the intimate knowledge now possessed of the assets of every estate, and of the resources of the country, there should not be any great difficulty in holding khám whenever the assessment is fair. It should not, however, be attempted on any great scale, because of the time and minute attention it requires, nor should it be attempted at all, unless the Collector finds himself in a position where he may reasonably expect to have time and opportunity to carry his experiment fairly out. The defaulters cannot claim release from khám tahsíl on payment of the balance, nor till the expiration of the period of direct management determined upon, and caution should be used in too easily readmitting zamíndars to the management of their estates as soon as the property begins to yield a surplus.

78. (79). Estates are sometimes necessarily held under direct management, because of the refusal of the proprietors to engage for them, and because no farmers can be found to take

them These will be managed in the same manner as estates held khám on account of balances.

79 (86). [When the land is let in farm, the duration and conditions of the farm must be determined by the Deputy Commissioner. The farm should ordinarily be reduced to the shortest possible term, with power to the proprietor to re-enter on its expiration without repayment of the balance] In selecting the farmer, preference should be given to any person who possesses any right of property in the land concurrent with that of the defaulter If there are both superior and inferior proprietors, it should be offered to the class of proprietors with whom the settlement was not made. If the land was mortgaged, the mortgagee should have the offer. A preference should also be given to the owner of property contiguous to or intermixed with that of the defaulter [When the Financial Commissioner's consent to the land being farmed has been obtained, an engagement should be taken from the farmer, accepting the farm for such period and on such conditions as have been determined upon. Certain conditions have been prescribed by the rules made under Section 66 of the Punjab Land Revenue Act, 1871, as that the farm should not be heritable of right, and that on the lapse of the farm on the death of the farmer, or by his default, it should be optional with the Deputy Commissioner to set aside any contracts affecting the land made by him.] As the land cannot be sold for arrears which have accrued while it is held in farm, sufficient security must be taken from the farmer for the punctual payment of the amount at which it has been farmed to him [Subject to the restrictions imposed by the conditions of the farm, the farmer has, whilst it continues in force, full proprietary rights, and by the terms of the Act * he is at liberty either to occupy the land himself, or to sublet it on such terms as he may think proper. If he lets the land or any part of it, the first offer must be made to the owners, who, if they accept the offer, will hold as tenants at will, in the absence of agreement to the contrary. If the owners reject the terms offered by the farmer, he may let to any other person. It follows that, if he is at any time willing to let the land on more favorable terms than those refused by the owners, they should have the first offer on those terms. On lapse of the farm before the expiration of the period for which it was granted, the old proprietors cannot

* Section 52.

claim re-entry of right. The Deputy Commissioner, with the sanction of the Financial Commissioner, may either readmit them, or make any other arrangement which he may think proper.]

81. (88). This process involving annulment of settlement, the land must be resettled on the expiration of the period of the farm, and new engagements must be taken from the proprietors when readmitted. When a resettlement takes place after farm or direct management, the assessment is not necessarily the same as, or less than, that previously fixed, and it should be made with due advertence to the light which the farm or direct management has thrown upon the resources of the property. [While land is held under direct management, or let in farm on account of an arrear of revenue, the proprietors or other persons dispossessed of any beneficial interest in the land are entitled to an allowance of not less than five per cent., nor more than ten per cent, upon the net amount realized by Government from the land.* They may, of course, accept of favourable terms as cultivators or other equivalent in lieu of such an allowance. In the case of a farm, the payments to be made by the farmer should ordinarily be determined, so as to cover the amount of such allowance in addition to the arrears of revenue due and the current revenue which would have been payable, had the settlement not been cancelled.]

82. *VII. Attachment of the defaulter's interest in other land.*—[When an arrear cannot be recovered by any of the processes above described, the Deputy Commissioner is authorized, with the previous sanction of the Financial Commissioner, to attach any beneficial interest to which the defaulter is entitled in other land, and appoint an agent to manage it until the amount of the arrear has been discharged.† Such attachment is not attended by annulment of settlement, and the remarks contained in paras. 68 to 71 are applicable to it.]

83. (90.) *VIII. Sale of the land in respect of which the arrear has accrued.*—The realization of arrears of revenue, by sale of the estate on which the arrear has accrued, is a process unknown to Native States, and is entirely the result of the British system of administration. Property in land is certainly known under Native Governments. Private transfers by sale, gift, or mortgage constantly occur under them, but these are entirely dependent on the will of the parties, and are not enforced by the Govern-

* Punjab Land Revenue Act, 1871, Section 53. † Ib, Section 55.

ment. The power of effecting public sales for arrears results from the limitation of the Government demand and the confidence of the people that, when the demand is open to readjustment, it will not be unduly enhanced.

84. (91).* In Bengal, Behar, and Orissa, the permanent settlement effected a great revolution in the state of landed property. It very extensively deprived the village communities and inferior holders of their rights, and created new and absolute rights of property in behalf of persons who had previously possessed only a limited interest in the produce of the land. The sale process was very well adapted for such a state of things. The persons first recognized as proprietors might be, and often were, ruined, but their rights passed into the hands of other capitalists, who were ready to speculate in land, and such changes made no alteration in the body of resident cultivators, who carried on their affairs much as they had always done, battling, to the best of their power against the person entitled to receive their jama, and remaining for a long time ignorant of the essential change which had been made in their position. When the rage for thus speculating in land was at its height, the Ceded and Conquered Provinces were annexed to the British Empire, a brief settlement was hastily made, and the sale process inconsiderately introduced. A few intriguing characters about the public offices eagerly seized upon this opportunity for enriching themselves, and great confusion ensued. The evil at length forced itself on the consideration of the Government. The Board of Revenue frequently exposed the real state of the circumstances, and Mr. T. C. Robertson, the intelligent and energetic Judge and Magistrate of Cawnpore, so strongly represented † the importance of the question, that a special commission was appointed under Reg. I. 1821, to remedy the evils that had occurred, and to reverse all fraudulent or unjust sales of this nature. The preamble of that Regulation exposes the magnitude of the evil it was intended to remedy. The powers entrusted to the Commission were subsequently enlarged by Regulation I. 1823. The Special Commissioners were first selected men of tried ability; but in 1829 the already extensive powers of Special Commissioners were still further

* Paras. 84 and 85 are a record of the experience of other provinces, but it seems useful to retain them as a warning against the abuses to which the sale process is liable. These abuses have not been allowed to arise in the Punjab, and, unless under the most exceptional circumstances, it has never been found necessary to have recourse to sale for the recovery of arrears.

† See this letter published in Revenue Appendix, No. 68, to the Report of the House of Commons, dated 16th August 1832.

enlarged, and were conferred by Section 10, Regulation I. on every Commissioner of Revenue, and very great diversity of practice then prevailed. Many changes subsequently took place in the arrangements for disposing of these suits. At length by Act III. 1835, the further entertainment of suits of this nature was stopped, but it is only within the last few years that the labors of the Commission have been laboriously and painfully brought to a close. Simultaneously with these measures, others have been pursued under Regulations VII. 1822, and IX. 1833, and similar enactments, for ascertaining the real rights possessed in the land and the liabilities of the proprietors.

85. (92). The effect of these measures has naturally been to shake confidence in sales. Intending purchasers have before them not only the risk of suits in court to set aside the sale on the numerous pleas of irregularities which are liable to occur, but also they remember the sweeping measure of 1821 for reversing such sales. They are aware, moreover, of the strong repugnance to the sale process, which has arisen on the part of public officers in consequence of its hardship, and they perceive that the minute record of rights which has now been made prevents them from exercising that large discretion in the purchased estate which the absence of that record previously allowed.

86. (93). The preceding brief retrospect is necessary to enable public officers to understand the real difficulties which beset resort to the sale process. The law is still absolute, and lays no restriction on the discretion of the officers of the Government. The right of Government to hold the entire body of proprietors, and the entire estate, responsible for the amount of the whole jama, is declared [in Section 35 of the Punjab Land Revenue Act, 1871,] to be indefeasible, whilst any sale conducted in the prescribed method would be complete and final. The mode of conducting a sale is fully set forth in [Section 58 of the Act and the Sections of the Civil Procedure Code therein mentioned,] which must be carefully studied by every person who resolves to act under it. The precautions to be observed are few and simple, so as to leave no excuse if the sale be subsequently reversed in consequence of informality.

87. [This process cannot be resorted to unless the Deputy Commissioner is of opinion that the arrear cannot be recovered by any of the means previously described, and before it is adopted, the sanction of the Financial Commissioner

must be obtained. For this purpose it will be necessary to submit a full report showing how the balance arose, and the reasons why it is considered necessary to adopt this means of recovering the arrear.* When sanction has been communicated, proclamation and notification of the intended sale must be made at least thirty days before the date fixed, in accordance with Section 249 of the Code of Civil Procedure, except that the proclamation shall declare that the land is sold free of every incumbrance, except the Land Revenue and other legal charges which may be from time to time assessed upon it. If the arrear be paid by the defaulter before the day fixed for the sale, the sale must be stayed.]

88. (94). An estate should never be put up for sale at the amount of the arrear as an upset price. All bids should be received, but when the price bid is not sufficient to cover the balance, the estate should be ordinarily bought in for the Government. In such case the person and the other property of the defaulter are still liable for the balance which may remain due after deducting the sum bid by the Government. If the defaulter be known to be possessed of much other property, the Collector may sell the estate for less than the balance, and immediately proceed against the other property.

89. (97). It has already been stated in paragraph 55 that pattí or other portion of an estate should not be bought in by the Government when put up to sale for an arrear of revenue. If no bidders appear, the lot should be withdrawn, and it will then be for consideration whether measures should be taken for enforcing payment of the demand from the entire estate.

90. (99). [When the arrear for which the sale takes place has accrued upon the land brought to sale, the sale cannot be called in question in any Civil Court, on the ground that the defaulter was not the proprietor of the land.] The estate is hypothecated to Government for the revenue assessed upon it; and so long as it is in the hands of the owner, or of any person to whom the owner has voluntarily transferred it, it may be sold in satisfaction of a balance due upon it. [If the land be under the control of the Court of Wards, or so circumstanced that the Court of Wards might exercise jurisdiction over it, it cannot be brought to sale for the arrear. Nor can land be sold for an arrear which accrued upon it while it was under attachment under the Punjab Land

* For form of report see Appendix No. IX.

Revenue Act, 1871, or held in farm under the Act by any person not a member of the village community *]. If the land has been let in farm, either on account of the refusal of the proprietors to engage for the revenue, or to recover arrears due by them, and the farmer makes default, the balance must be recovered from him or his security.

91. *Sale of the defaulter's interest in any house or land other than that in respect of which the arrear has accrued.*—[This process may be had recourse to under the same circumstances as, and with the same sanction as, is required for the sale of the land upon which the arrear is due, the same procedure is followed, and the consequences of the sale are precisely similar, except that in this case the sale may be set aside by a Civil Court on proof that the property sold does not belong to the defaulter. In both cases the property is sold free of all incumbrances, except the Land Revenue and other legal charges which may be assessed upon the land, and all contracts made in respect of it become void as against the purchaser. The estate on which the balance accrued should ordinarily be sold before proceeding to sell other land or houses belonging to the defaulter, or in which he possesses an interest; and when it is proposed to bring such other land or houses to sale, the report to the Financial Commissioner should state the nature and origin of any interests existing in it other than that of the defaulter, to enable him to judge whether the sale can be carried out without injustice.

92. [No sale, whether of the land upon which the arrear is due, or of other land or houses, becomes absolute until it has been confirmed by the Deputy Commissioner.† This confirmation cannot be granted until 30 days have elapsed from the date of the sale, and within this interval, application may be made to the Deputy Commissioner to set aside the sale, on the ground of any material irregularity in publishing or conducting the sale, from which the applicant has sustained substantial injury. If the objection be disallowed,‡ an appeal may be preferred against the order confirming the sale to the Commissioner of the Division, and an appeal will lie from the Commissioner's order to the Financial Commissioner. Any objection to the sale, other than that of material irregularity in publishing and conducting it, which would be a valid objection to a sale under the Code of Civil Procedure, may

* Punjab Land Revenue Act 1871, Section 56.
† Ib., Sections 56 and 58; Act VIII of 1859, Section 256.
‡ Act VIII of 1859, Section 257; Act XXXIII of 1871, Section 58.

with the exceptions specified in Section 59 of the Punjab Land Revenue Act, 1871, be brought forward by suit in a Civil Court.

93. (45) [Besides the duty of collecting the revenue, the Collector has important duties to discharge in connection with the distribution of advances made by the State for purposes of agricultural improvement. Such advances are authorized for the purposes of* providing means of irrigation, draining or reclaiming land, and protecting it from floods or from other injury by water]. Under certain circumstances *much good may be done by judicious advances of this nature.* Where the landed property is minutely subdivided, and the land capable of improvement by any of these methods and the people are industrious, though poor, they may be of the greatest service. [The advance should never be made until it has been ascertained by local enquiry that it is desirable, and can be made in accordance with the Act and the rules† made under Section 18.] A practice has sometimes existed of making merely nominal advances, which were immediately credited to Government in liquidation of existing balances. This is quite inadmissible. [If any relaxation of the Government demand appears proper, the sanction necessary for its suspension or remission should be applied for without delay.]

94. (46) In making such grants the works for which they are required should be specified, and estimates of the cost of their construction should be carefully prepared and examined.‡ The advance also would more appropriately come in aid of exertions made by the applicants themselves than in liquidation of the whole charge.

95. (47) [The amount§ of the advance and the manner and time of making it, the instalments by which it is to be repaid, and the rate of interest to be charged (which is for the present‖ six per cent. per annum), the land which is to be improved, and the nature and amount of the security furnished (if any) other than such land, should be specified in the certificate sanctioning the advance. The value of the security accepted must exceed by at least one-fourth the amount of the

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* *Act XXVI of 1871, Section 3.*
† G. O. No. 1603 dated 9th November 1872, see Appendix No. X.
‡ See Rules 3 and 4.
§ Act XXVI of 1871, Section 14.
‖ Rule 29

advance*]; but as the land, for the improvement of which the advance is made, is, by the terms of the Act,† hypothecated for its liquidation, it will be unnecessary to require any collateral security when the land is in itself adequate security. [If land or property, other than the land to be benefitted, is hypothecated as security, the certificate must be stamped as a mortgage,‡ and registered if the registration of such an instrument is required by law. If the applicant be a tenant without transferable interest, the certificate must be signed and attested by the landlord and witnesses, and if any property not belonging to the applicant is pledged as security, it must be signed and attested by the sureties and witnesses When the advance or the interest specified in the certificate becomes due, § it is recoverable as an arrear of Land Revenue, in the first instance from the person to whom the advance was made or his surety, and, if it cannot be so recovered, from the land]

96. (101). The management of the Abkárí or excise upon intoxicating liquors and drugs is also entrusted to the Collector of Land Revenue. Under Native Governments any revenue to be derived from these sources was considered a branch of the sayer, and collected from the person responsible for the payment of the land revenue, who made his own arrangements. The British Government separated the Abkárí revenue from the Land Revenue, and introduced a new system of managing the excise.

97. (102). In administering this department it is far from the duty of a Collector to aim at increasing the Government revenue by encouraging the consumption of liquors or drugs On the contrary, his object ought to be, by rigorously exacting the tax, to raise the price of the articles, and thus to diminish the consumption that would otherwise naturally take place It is impossible to prevent the consumption, both because in moderation and under due control the consumption is not prejudicial, and because in the experience of all Governments the smuggler under such circumstances baffles the Excise Officers The object should be to raise the tax to that height which will most enhance the price, without offering to the smuggler a reward sufficiently high to induce him to run the risk of smuggling.

* Rule 22.
† Section 15
‡ Rule 18.
§ Act XXVI of 1871, Section 15

98. (103) The system for collecting the Abkárí revenue will be found detailed in Act X of 1871 and the rules made under it, which will be found in Appendix No. XI, but it may be useful to add a few remarks on each branch of the revenue.

99. (104) The chief articles taxed are the following :—

Spirits manufactured after the native method ;

Spirits and malt liquor manufactured after the European method ,

Bhang, charas, gánjá, or other intoxicating drugs manufactured from the hemp plant (Cannabis Sativa) ,

Opium in its solid form or in any of the liquid preparations in which it is commonly used

100 (105) The main part of the Abkárí revenue arises from the tax levied on spirits manufactured according to the Native method, and this may be effected in three methods, by the establishment of central distilleries, by licensing separate shops for the manufacture and sale of spirits, or by farming out the right to collect these duties in a certain tract of country

101. (106) A central distillery consists of a walled enclosure within which alone the manufacture of spirits according to the Native method is allowed for the supply of a tract of country usually coinciding with one tahsíl subdivision. The liquor is liable according to its strength to a fixed duty per Imperial gallon on being removed from the enclosure The liquor is sold by licensed vendors, who are bound to pay the still-head duty on the quantity of liquor removed from the distillery, and also to pay a certain sum per diem for the privilege of sale.

102 (108). When the duties in a tract of country are farmed, the farmer has full power, subject to any reservations or restrictions imposed by the Collector,* to make with the distillers and sellers such arrangements as he may chose, but he is precluded from suffering any liquor to pass beyond the limits of his farm.

103 (109). Spirits manufactured according to the European method are liable to a duty, and are not permitted to be

* Act X of 1871, Sections 27 to 29.

moved or sold except under license, certifying either that the duty has been paid, or that it has been secured by bond. These provisions have latterly become of importance in consequence of the establishment of distilleries of rum in connection with manufactories of sugar; such rum being intended either for export or consumption in the country

104. (111). Bhang, gánjá, or charas in its manufactured state is liable to a duty, but no restriction is placed on the cultivation of the plant, which is also most valuable for the hemp which it yields. It is only the sale of the manufactured article which is taxable.

105. [The mode of collecting the duty on opium in the Punjab is altogether different from that which is followed in other parts of Northern India. In Bengal and the North-Western Provinces opium can only be grown under the authority of Government and for sale to Government, and the licensed vendors are obliged to obtain their supplies from the Government stores at a price fixed by Government. In the Punjab, except the districts of the Delhi and Hissár Divisions, the only restriction placed upon the cultivation of the poppy is the levy of a rate of Rs. 2 upon each acre under that crop. The cultivators, however, are not allowed to dispose of the produce, unless to persons holding licenses authorizing them to deal in opium, poppy heads, or other preparation containing opium.]

106. (113) In order to enforce the Abkárí laws and protect this branch of the public revenue, the Collector and the Excise officers subordinate to him are armed with extensive powers, both to search for unlicensed stills and their produce, and also to punish all breaches of the law with fine or imprisonment. Balances are realizable from the defaulters or their sureties in the same manner as from farmers of Land Revenue or their sureties.

107. (114). It is of importance that the Abkárí revenue be so managed as to be kept subordinate to the maintenance of a good police and the preservation of the public peace. Revocation of license and suppression of the shop should be made the penalty of all disorderly or riotous conduct, or of any thing tending to the disturbance of the public tranquillity.

108. (115). In managing the Abkárí, the Collector should bear in mind the great command he possesses over his

district by means of his powerful establishments. Seasons of scarcity and difficulty, by raising the price of the articles from which spirituous liquors are distilled, or by diminishing the power of the people to purchase, must always greatly affect the Abkárí here, as it does the excise in all countries. Independently, however, of these natural causes of fluctuation in the revenue, great changes will also result from the mode of administration, as the personal character of the Collector cannot fail to affect greatly the administration of all branches of the revenue entrusted to him. Farming is the usual mode of administration of the revenue from intoxicating drugs and opium, and when the Collector is deficient in vigilance or determination, it is not improbable that combinations will occur amongst the farmers to lower the terms of their farms to their own emolument and the loss of the Government. On this account the Collector should always keep himself apprised of the real value of the farms. He should know the number of shops, the terms on which they are let, and the incidental payments, besides rent, that may under any denomination be made to the farmer He should also be prepared at any time to dispense with the farmer and take the management into his own hands. This can best be done through the Tahsíldárs, and the first step should be to cancel all outstanding licenses and to issue new ones under his own seal and signature, rigorously enforcing the laws against all unlicensed vendors through the police, as well as through the revenue establishments.

109. (116). A Collector can always form a tolerably correct idea of the administration of the Abkárí Department in his district by comparing its state with that of other districts, or by comparing its present with its past state, or its state in one part of the district with that in another

110. (117) The stamp revenue is entirely one of European introduction It was unknown in India before the commencement of the British rule, and therefore should be cautiously introduced into all newly-acquired territories. The paper becomes valuable according to the amount of the stamp which it bears, and hence it is entrusted to the Collector for safe custody and disbursement, as though it were paper money. The law regarding stamps is all contained in [the General Stamp Act, 1869, and the Court Fees Act, 1870].

111. (118). The great objects to be aimed at in the Department of Stamps are the safe custody and honest sale of

the paper; entire freedom of sale and purchase, so as to prevent any monopoly and enhancement of the price; and the prevention of frauds on the revenue by the fabrication of stamps or the second use of the same paper.

112. (119). The safe custody and honest sale of the paper can only be secured by the same vigilance and care which prevents all embezzlement of money. The great store of paper should be kept in the Treasury under double locks, the key of one lock being retained by the Officer in charge of the Treasury, and that of the other by the Treasurer, and it should not be given out for sale unless on payment of ready money, except to ex-officio vendors, or to licensed vendors authorized by the Local Government to be supplied with stamps of certain descriptions on credit, and in these cases the stamps issued on credit should not be more than will be amply covered by the security taken from the vendor

113. (120). In order to prevent an enhancement of price it is necessary always to keep a sufficient stock of paper on hand, by timely indents upon the Superintendent in Calcutta, and also by establishing a sufficient number of vendors in convenient positions, and as much as possible with conflicting interests, so as to prevent monopoly or extortion

114 (121) It is not often that forgery of stamp paper is attempted. The device and the water-mark oppose obstacles to this, which are not easily overcome. But the native ink does not act chemically on the paper, and hence a common fraud is to wash out the old writing and to use the paper a second time Sometimes also it has been the practice in the Civil Courts to allow two papers of small value to be filed instead of one of larger value: only one of the two pieces is written upon, the other is filed blank, and at some future period is withdrawn from the record, and sold for use a second time.

115. (122). Means have been adopted to check or to prevent all these frauds, but none will be effectual if vigilance be relaxed on the part of the Officer who has charge of this branch of the revenue. He must ever be on the watch against the renewal of old modes of fraud, or the practice of new modes.

116. [The Collector is also charged with the collection of other branches of Inland Revenue, such as the tolls on ferries and other sources of provincial or local revenues, which will be noticed hereafter. In the Punjab he has the same powers for

the recovery of any other revenue due to Government* as for that of the Land Revenue

117 [The Deputy Commissioner is charged by Act XVIII of 1869 with the duty of instituting and conducting prosecutions for offences punishable under that Act, † and is bound to prosecute when an instrument impounded by a Civil or Criminal Court, on the ground that it was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the stamp duty required by the law in force in British India at the time of its execution, is sent to him ‡ When an instrument not bearing the proper stamp is sent to him by any other public officer, or is produced before him,§ he can either allow the deficiency to be made up, subject to certain provisions as to payment of penalty, or, if it appear to him that there was an intention of evading payment of the proper stamp duty, may prosecute the parties by whom it was executed, or such of them as he may think fit He is also empowered, on payment of a fee of five rupees,‖ to adjudicate as to the proper stamp chargeable on any instrument brought to him for that purpose, and if it does not already bear the proper stamp, to receive the deficiency with any penalty which may have been incurred, unless the instrument not bearing the proper stamp be a bill of exchange, promissory note or instrument chargeable with the stamp duty of one anna brought to him subsequent to the drawing or execution thereof

The rules subsidiary to the Stamp Act and Court Fees Act, which have been made for the Punjab up to the 31st January 1873, are collected in the Punjab Stamp Manual, in which the accounts to be kept are prescribed It also contains the rules for the custody and vend of Telegraph Stamps and of Postage Stamps Rules for the supply and account of Court Fees Stamps will be found in Punjáb Government Notification No 885 dated 10th June 1874, published at page 183 of Part I of *Punjáb Gazette*

118 (124) Such are the extensive powers with which the Collector is invested by law for the recovery of the Government revenue Cases may arise in which, from want of due deliberation and care in the exercise of these powers, the provisions of the law may be overlooked, and illegal proceedings may be

* Act XXXIII of 1871, Section 64.
† Section 48
‡ Section 22
§ Sections 23 and 24.
‖ Section 39

adopted [and any person aggrieved by such proceedings may obtain his remedy in the Civil Courts,* unless their jurisdiction be expressly barred by law, in which case, if redress be denied by the officer concerned, it must be sought by appeal to the superior revenue authorities In the Punjab it has been considered advisable to debar the Civil Courts from taking cognizance of claims arising out of, or connected with, the collection of the Land Revenue, † or any process enforced on account of an arrear of Land Revenue, or of neglect or refusal to engage for the Land Revenue, except where jurisdiction is expressly given in the Punjab Land Revenue Act, 1871. The cases in which such jurisdiction is expressly conferred upon the Civil Courts are specified in Sections 44, 45, and 59 of the Act. The two former of these Sections relate to cases in which the person, or moveable property of the defaulter, has been proceeded against, and they enable him, if he denies the arrear to be due, to obtain release from custody on depositing sufficient security, and to contest his liability in the Civil Court, or to pay the amount claimed under protest, when he is entitled to have the process taken against him withdrawn, and may sue the Government in any Civil Court for the recovery of the sum so paid. Section 59 permits a suit to be brought in the Civil Court to set aside a sale of land or houses for arrears, on any ground on which a sale under the Code of Civil Procedure ‡ might be set aside, with the exception of certain specified grounds, the most important of which is that, if the arrear be due in respect of the land sold, the objection may not be taken that the land does not belong to the defaulter.

[When a suit is brought against a Collector in any case in which the jurisdiction of the Civil Courts has not been expressly excluded, it rests with the Financial Commissioner,] subject to the final decision of Government, to determine whether the defence shall be conducted at the risk of the individual or the expense of the Government. This is an important safeguard against error, but no Government officer should venture on an equivocal course of action, or omit any precaution or enquiry, trusting that, if he errs, he will be set right by the superior Revenue authorities or by the Civil Court. There are few cases where the decision of the Civil

* Code of Civil Procedure, Section 1.

† Act XXXIII of 1871, Section 65.

‡ *I. e.*, for any material irregularity from which the applicant has sustained substantial injury,—Section 256. Section 59 of Act XXXIII of 1871 seems to modify Section 257, Code of Civil Procedure, by allowing a suit where that Section only gives an appeal, if the application to the officer ordering the sale proves unsuccessful.

Court is justly against the Government officer, in which a severe censure is not thereby conveyed upon the defeated party. The Collector must have had the case as fully before him as the Judge can have, and there is no reason why he should fail to come to correct conclusions. Both administer the same laws, and are bound by the same rules, and should ordinarily arrive at the same conclusions. The rules for the conduct of suits prescribed by the Financial Commissioner with the approval of the Local Government will be found in Appendix No XII.

119. [In reporting the case for the orders of the Financial Commissioner, the Collector nominates the person to whom he considers that the defence should be entrusted, who may be either one of his Assistants, a practising pleader, or a member of his ministerial establishment, and such pesrson is appointed by Government, if it undertakes to defend the suit, and approves of the selection made. All necessary costs, including the remuneration, if any, of the person appointed to conduct the case, should be disbursed by the Collector, and recovered from any party to whom, under the orders of the Court, they may be ultimately chargeable.

120. [The Collector is also charged with the realization of all sums which are recoverable through the Civil Courts, whether they be sums decreed in Government suits, or costs of suit, or sums recoverable in pauper suits for the value of the Court fees, which would have been charged had the suit not been admitted *in formâ pauperis*. The Collector should use* all means in his power to prevent evasion and recover the full amount of such dues. If they are hopelessly irrecoverable, he should obtain leave from the Commissioner to write them off]

SECTION III.—*The Custody of the Records and the Registration of Landed Property.*

121. [When a district is for the first time brought under regular settlement, a complete record of rights is drawn up for each village or estate comprised in it, and this record may be directed to be revised at any subsequent settlement of the district, in accordance with the provisions of Section 19 of the Punjab Land Revenue Act, 1871. When the operations of the settlement are complete, these records are handed over to the

* Cust's Punjab Revenue Manual, p. 292.

Deputy Commissioner, and he is required * to cause to be recorded from time to time all facts which occur affecting any matter stated in them. Copies of the periodical returns required from the village accountants, and all proceedings in the Revenue Department, are also filed in his office, those which admit of being arranged according to villages being placed with the record of rights of the village to which they belong. All the records relating to one village are placed in a bundle bearing the name of the village †. A complete register is thus formed of all rights in landed property, of the Government demand upon each estate, and of the mode in which it is allotted amongst the different proprietors.

122. [A member of the Deputy Commissioner's ministerial establishment is appointed as record keeper (*muhafiz daftar*), and placed in charge of the vernacular records, and any subordinates who may be necessary to aid him in this duty are also appointed by the Deputy Commissioner in accordance with the scale of establishment sanctioned for the district.

[To contribute to the expenses attendant on the maintenance of the record office and preservation of the records, fees are levied in respect of recording facts affecting the record of rights, such as mutations of proprietary and occupancy rights, whether arising from inheritance, or from transfer by gift, sale, or otherwise. These fees are charged at the rate of one rupee four annas per cent. upon the revenue assessed, and one-fifth of the amount is payable to the village accountant, the balance being credited to the record office fund. Payment may be enforced in the same way as in the case of arrears of Land Revenue due to Government. When perfect partition of estates, involving complete separation of interest and responsibility, is permitted a similar fee is charged.]

123. (130) As the office, thus constituted, is designed for the good of the community at large, it is of importance that all the arrangements regarding it should be such as to afford the freest access to the documents it contains, which may be consistent with their safe custody. [The arrangements made with this view by the Local Government under Section 88 of the Registration Act of 1871 will be found in Appendix No. XIII.]

* Act XXXIII of 1871, Section 39.

† In many districts the records of Civil and Criminal proceedings are now similarly arranged, being placed with the Revenue records of the village, but in distinct bundles.

‡ Act XXXIII of 1871, Section 40, and rules made under the Act on the subjects of mutations and of fees.

124. (131). The systematic arrangement of the Collector's records has engaged much attention. The regular settlement and the survey on which it was based have greatly facilitated the attainment of this very important end. The system on which the records have been arranged is uniform throughout the Punjab, and admits of easy explanation.

125. (132). It is assumed that the limits of the revenue subdivisions of the district have been finally determined, and that the lists of villages in each tahsíl, prescribed in para. 44 of Directions for Settlement Officers, have been drawn up.

126. (133). [A certain number of racks in the record-room is then allotted to each tahsíl, in which the papers belonging to each village are placed in separate bundles *(bastahs)*, the color of which varies according to the tahsíl.] A general index is formed for the tahsíl, a distinct sheet being set apart for each village. The headings of each sheet correspond with the arrangement of the business of the Collector's office, and every case relating to the village is entered in it under the appropriate head as soon as the case is placed in the record-room (see Appendix No. XIV). The entry gives simply the date of the final order in the case.

127. (134). The best mode of explaining the arrangement of the records will be to suppose the office in the greatest possible confusion, and to detail the steps necessary to bring it into order. Let it be supposed that the documents in loose sheets, unconnected with each other, are found thrown together in large chests. Many such chests full were found in Collector's offices, when attention was first turned to the subject.

128. (135). Papers which form part of the same case or proceedings (misl) should first be brought together. These misls may be more or less perfect, but whenever they are such as to be intelligible, and to throw any light on the affairs of the mauzah, the leaves which compose them should be numbered according to date on the outer corner of each leaf, and should be united by a thread, and have an index on a separate sheet attached to them. This index should show prominently the name of the village, the nature of the case, (corresponding with some head of the general index), and the date of the final order. It should also give the designation and dates of the papers composing the file, each entry being marked with a number corresponding with that borne on the outer corner of the leaves of the paper. The

lists should be totalled and closed, so as to prevent future additions. When the case regards two or more villages, as in the case of a boundary dispute or tálúkah, it should be recorded under the name of the most prominent village, but a note of reference (jákar) should be put up with the bundles of files of the other villages, and corresponding entries should be made in their fly and general indices.

129. (136). The cases regarding the same village should then be brought together, and arranged according to dates in an open fly index, bearing the name of the village. At the same time the date on which each case was disposed of should be entered in the sheet of the general index allotted to the village under its appropriate head. It will be observed that there is an essential difference in construction between the fly index and the general index.* In the former the entries show both the subject and date, and are made consecutively according to the date of the final order, but in the latter they show only the date, and are made under heads which indicate the subject.

130. (137). The files of each village, with the fly index, should be tied together, and as many files as can conveniently be kept together should be bound in a cloth, on the outside of which should be legibly written the tahsíl and the letters of the alphabet † under which the villages contained in the bundle (bastah) fall.

131. (138). These bundles should then be arranged in alphabetical order on racks or shelves of suitable size, one or more of which should be appropriated to each tahsíl, and the name of the tahsíl should be shown in large letters on some conspicuous part of the shelf or rack.

* "2*nd*. It is commonly supposed that the fly index is a mere transcript of the entries in the general parganah register relating to the mauzah with the bundle of which it is placed, but such is not the case. The object of the fly index is to arrange the misls of each bundle in a new form, not with reference to the matter they contain, but so as to prevent the abstraction of any one misl or the papers of any misl. The misls should therefore be numbered consecutively according to the date of the final order. The fly index should show the misls, arranged as they are received by the record-keeper, with the number borne by each, a notice of the head of the general parganah register to which it refers, the date, and the total number of papers in the misl. As each new misl is placed in the Record Office, an entry will be made in the parganah register under the proper head, and a fresh entry at the foot of the open fly index recording the above facts. The entries in the parganah register are according to heads, and in the fly index consecutively according to chronological order."—Circular Order, S. B. R., N. W. P., dated 11th January 1848.

† A topographical arrangement according to zails and patwárí's circles is sometimes adopted in preference to the alphabetical arrangement here described.

132. (139). It will thus be seen that the arrangemen of the records is according to locality. In orde to find any required document, it is only necessary to know the village to which it has reference, and the tahsíl in which the village is situate, the date of the document or nature of the case being secondary considerations

133. (140) The vernacular proceedings generally contain a reference to any English correspondence which has passed regarding a village, but it would also be convenient to have a column in the general index, which should show the dates of letters which have been written or received connected with its affairs The indices would then afford a clue to all recorded facts and opinions regarding every village in the district

134 (141) As it has been directed in para 13 that the classification of cases under investigation in the office should correspond with the heads of the general index, the deciding officer will have the opportunity, as the cases pass under his review, of correcting any error of classification which may have been committed in the first instance Adequate security is thus afforded for the uniform and correct entry of all cases under their proper headings

135. (142). The Collector's office becomes the depository of the records of the Tahsíldárs, Kánúngos, and Patwáris regarding each of which some observations are necessary.

136. (143). The chief revenue duty of the Tahsíldár is to make the collections, and to keep the accounts of that part of the district entrusted to his charge Forms have been prescribed for his guidance in this duty, but they will come more appropriately under consideration in a future section of this treatise, when the Collector will be considered as the accountant and treasurer of the district.

137. (144). The Tahsíldar is also the local referee in many judicial cases which come before the Collector. In case of default, his report also becomes the ground-work of future proceedings. In questions regarding registration of landed property, regarding mesne profits, regarding boundary disputes, and many others of a similar nature having reference to land, which come before the Collector, the Tahsíldár is the instrument through whom the local investigation is made. But [unless he is himself empowered to decide,] all his enquiries are thrown

into the shape of reports, on each of which the final order of the Collector or of one of his subordinates is passed, and the cases subsequently take their place in the Collector's record office according to the village to which they relate, and the date of the final order.

138. (145). The Kánúngo's duties are enumerated in [rules framed under Section 6 of the Punjab Land Revenue Act, 1871.] The most important of those which he now performs are the following:—

I [To superintend and control the Pátwáris,] receive, examine, and arrange the Patwári's papers, and to bring to the notice of the Tahsíldár any irregularities there may be.

II. [To maintain registers of village officers, of assignments of Land Revenue, and of mutations, and report all changes to the Tahsíldár for orders.

III. To collect information regarding descriptions of produce, rates of rent, and local rules and customs.

IV. To aid in all local enquires in the Revenue Department, and at all measurements by Revenue Officers.]

The old Kánúngo records are very valuable, especially those of a date prior to British rule. They should be preserved with great care.

139. (146). The Kánúngo should be familiar with the principles and details of all the systems of returns and records in the district, and is the official exponent of every thing regarding the landed property, which should be noticed in such records.

140. (147). The Patwári is the village accountant, and maintains the registers of rights in land. He attests all written engagements entered into between the proprietor and cultivators, and records all arrangements regarding land between copareeners in a joint estate. As every entry in the village account affects the rights and interests of some cultivator or proprietor in the village, the Patwári's papers are most important documents. [A description of these, as at present prescribed in the Punjab, will be found in Appendix No. XV.]

141. (148). The Patwári's papers, as they are annually furnished, should be deposited with the other records regarding

the village on the proper shelf, and the necessary entry should be made in the general index.

142 (149) Care will be requisite to maintain the proper arrangement of the records when they have once been put in order The state of a record office and the efficiency of the record keeper are easily ascertained It is only necessary to call for the general indices, to open them at random, to lay the hand upon the entry regarding any particular case, and then to observe the time occupied in its production, and the means by which it is found In a well regulated office only a few minutes should be occupied in producing the required papers Rules should be prescribed for the delivery of the completed misls to the record office, and the deposit of them by the record keeper in their appropriate place It might be a rule that on each Saturday the Serishtadár should make over to the record-keeper the cases disposed of in the week immediately preceding that just expired, and that these should always be placed in their proper shelves in the course of the following week Arrears ought never to be allowed to accumulate, and that they do not accumulate can always be ascertained by demanding from the Serishtadár the file of any class of suits, by observing the date of decision of any late case and the date of delivery to the record keeper and by then seeing whether it has been properly placed in the record office When the record keeper has once given his receipt for it, he becomes entirely responsible for its safe custody

143 (150) In order then to satisfy oneself of the efficient state of a record office, it will be necessary to ascertain that the records are rightly arranged and can be quickly produced, that they are placed up to the latest date required by the standing rules of the office, and entered in the indices, that the fly indices for each village are properly kept up, and that the files themselves are rightly compiled, the papers being properly numbered and enumerated in the list, and the list closed The last named operation should be done in the office before delivery to the record keeper, and that officer should refuse to receive the file till it has been thus made up.

144 (151). The registers of landed property, which the Collector is required [by Sections 39 and 40 of the Punjab Land Revenue Act] to keep up, constitute an important part of his records, and their importance is so great that they require distinct mention.

145. [The registers of land exempt from the payment of revenue to Government, and held by assignees, either in perpetuity or for a limited term, are important in the Punjab, where upwards of 32 lakhs of Land Revenue are alienated in this way Even where the revenue is assigned in perpetuity, the assignment is, except in the portions of the Dehli and Hissár Divisions formerly under the North-Western Provinces Government, not transferable, and lapses to Government on failure of direct heirs in the male line of the original grantee. It is therefore necessary that the registers should be carefully kept up to date, and the terms of the grant distinctly stated. A separate register or separate registers, arranged according to the nature of the tenure, are maintained for each tahsíl, one copy being kept at the tahsíl and another at the district office Consolidated rules for the maintenance of these registers, and for ascertaining the existence of assignees, have been issued with Book Circular No. XXI of 1872, which will be found in Appendix No. XVI]

146. (154). As regards lands paying revenue to Government, it is essential for the security of the Government revenue, as well as for the maintenance of private rights of property in the land, that a complete system of registration be devised, and that the registers be maintained with accuracy.

147. [For this purpose a málguzárí register is prepared for each district, showing the mahálsor estates with which a separate settlement has been made, arranged according to tahsíls, parganahs, and patwárí's circles. Where more villages than one belong to the same proprietors, separate engagements have ordinarily been taken at the time of settlement for each village, so that the malguzárí register, though primarily intended to show all estates in the district, serves at the same time as a register of all villages or townships (mauzas) which are included in it, and in its various revenue subdivisions. Where more than one estate is included in the same village, the several estates would appear in the register under the village of which they form part.

148 [The malguzárí register should be renewed at suitable intervals, so as to keep the information contained in it up to date. It should be prepared afresh every year, all changes which have taken place since the register was last formed being incorporated.]

149. (161). This register is designed to show who are the persons responsible to Government for the payment of the

revenue as proprietors or representative headmen, the land for the revenue of which they are responsible, and the amount of revenue to be paid. It has been remarked in para. 62 that revenue process should be issued, and the collections made *mahálwár* (according to estates), and not *mauzawár* (according to villages), *i. e.*, the payments due from one proprietor or body of proprietors should be demanded as one sum; and where several villages belong to the same proprietor, separate demands should not be made for the revenue assessed on each village. The málguzárí register will therefore be useful as a guide to the Tahsíldar in making his demand and keeping his accounts. The form of the register, with instructions for its preparation, will be found in Appendix No. XVII.

150. (162) The register should be prepared by the Tahsíldar when he makes up his accounts for the collection of the revenue of the ensuing year. All changes in the disposition of property during the year should be notified by the Collector to the Tahsíldár, and should be shown in the following year's register, where each change must be supported by a reference to the Collector's order which notifies it. No register of intermediate mutations will be necessary. If on coming to compile the register at the commencement of the year, the Tahsíldár finds that some changes have taken place which have not been notified to him, it will be his duty then to report them and to await orders, retaining in the register the old entry with a note of his report.

151. (163). The alterations which may take place in this register are often the result of the exercise of some of the most important functions of a Collector, and require explanation. Some of them affect the constitution of the mahál, as the union or division of estates, or the partition of lands held in joint ownership, others affect the names of the proprietors, and others affect the revenue demand, as bringing new villages on the rent-roll, striking old villages off the rent-roll, or altering the assessment of villages. These several classes of cases will be considered separately.

I. Union of estates.
II. Division of estates.
III. Partition of lands held in joint ownership.
IV. Changes of proprietors (*dákhil khárij* cases).
V. Bringing villages on the revenue roll.
VI. Striking villages off the revenue roll.
VII. Alteration of the assessment of villages.

152. [*I. The union of estates.*—This is a rare process, and as no rules have been laid down for carrying it out, it cannot be effected during the currency of a settlement. When a new settlement has been ordered to be made, and two contiguous estates belong to the same proprietors, who apply to have them included in the same engagement, they may be united if this can conveniently be done, especially if they originally formed part of the same estate, or if they are included in the same village area.]

153 (165) Where several estates belong to the same proprietor or body of proprietors, the principal end which would be gained by union may also be attained, without formal union, by giving a reference in the Málguzárí Register opposite each estate to the numbers borne by the other estates. This promotes the convenience both of the officers of Government and of the proprietors of the land In cases of default, succession, &c, it lessens the number of processes which the former have to issue and which the latter have to receive, and thus diminishes both trouble and expense The separation of the assessment on the several estates so grouped together remains complete If the proprietor should wish to pay up the revenue due on account of any particular estate before that of others, he can do so by specifying in the "*arz irsál*" the estate to which it is to be credited.

154. (166) Where the different properties lie in separate tahsíls, they cannot be grouped together unless all the mahál be made Hazúrí, *i e*, unless the proprietor be allowed to pay in his jama direct to the District Treasury. No proprietor can claim of right to be made Hazúrí Such an arrangement, however, possesses many advantages It is often a great convenience to the málguzár, and lessens the correspondence between the Collector and the Tahsíldár, as well as the risk of cash remittances from the tahsíl to the Treasury. It can always be effected with the approval of the Financial Commissioner, but its continuance should be made dependant on the punctual payment of the revenue.*

155. (167, 170). *II—The Division of Estates* (*Batwárah*). The nature and constitution of coparcenary estate or estates in which several persons possess heritable and transferable properties of the same kind have been explained in paras.

* See Nos. 2 and 7 of the Rules for the Payment of Land Revenue under Section 42 of the Punjab Land Revenue Act, 1871.

99 to 113 of the Directions for Settlement Officers, and the mode in which the joint responsibility of the coparceners in such estates is enforced has been stated in paras. 51 to 55 of this treatise. [In Bengal and the North-Western Provinces it was considered necessary to enable all coparceners or bodies of coparceners, who wish to free themselves from this joint responsibility with the remaining proprietors of the estate, and to become sole possessors of their own property, to claim the separation of their portion of the property and its formation into a distinct estate. In the Punjab this right has never been conceded. Lands held in joint ownership can be divided amongst the proprietors without severing the joint responsibility; and where the assessment is light, no hardship need be caused by the enforcement of the joint responsibility when necessary.] The maintenance of the joint responsibility holds the village community together, and thus promotes self-government; its preserves to them the right of pre-emption,* which is highly valued; and it enables them to manage the estate economically, as the village expenses would be increased by separation. [It at the same time preserves the utility of the records prepared at settlement, and it facilitates collection, and the establishment of proper police and conservancy arrangements.]

156. [On these grounds the division of estates has, in the Punjab always been regarded as inexpedient; and in 1860, with the sanction of Government, the Financial Commissioner prohibited the formation of new mahâls in districts which had been regularly settled, unless in special cases,† which were to be reported to the Financial Commissioner for his sanction to the measure. In the rules relating to partition framed under Section 65 of the Punjab Land Revenue Act, 1871, this restriction has been maintained. Even in the case of a first regular settlement, though the previous sanction of the Financial Commissioner is not required, the separation of a village into distinct estates cannot be claimed as a right. It rests with the Settlement Officer to decide whether, with

* Act IV of 1872, Sections 9 to 11, 13, 14 and 17 to 20; Act XXXIII of 1871, Sections 47 to 49; Act XXIII of 1861, Section 14.

† In Mr. Cust's Punjab Revenue Manual, while he insists on the impolicy of allowing complete partitions under ordinary circumstances, he gives the following illustration of the cases in which it may be desirable:—

"Even now if the owners of a village were to separate their joint property in distinct ring-fences, found new locations, and absolutely and entirely sever themselves from each other,—in such a case special orders might be given; and, indeed, where a river cuts through land of a village, such is necessarily the case."

reference to the circumstances of the case, such a separation is desirable.]

157. (168). This entire separation of the parts of an estate from each other, and their formation into distinct estates, is called the division of estates (*batwárah*). [When it is permitted to take place, it must be effected under the rules made by the Local Government under Section 65 of the Punjab Land Revenue Act, 1871. If the entries in the village record of rights be admitted by all parties to be correct, any questions which may arise as to the mode of partition must be decided by the Settlement or Revenue Officer under whose direction it is being made. If the extent of the shares of any of the coparceners is disputed, time must be allowed to enable the persons interested to obtain the decision of a Civil Court upon the matter in dispute. The effect of Section 65 of the Punjab Land Revenue Act is to deprive the Civil Courts of jurisdiction to pass a decree for the division of an estate. They can merely determine the extent of the shares to which the parties before them are entitled, and if the proper parties have been impleaded, the officer under whose direction a division of the estate takes place, or a partition of the land held in joint ownership is made without dividing the estate, will give effect to the decision of the Court upon this point.]

158. (169). *III. Partition of land held in joint ownership.*—In those coparcenary estates in which the whole or part of the land is held and managed in common by all the community, an imperfect partition often takes place, by which the whole of the common land is divided and allotted to the several coparceners, and each allotment of land is assessed with its proper share of the Government demand upon the whole estate; but still the mahál remains undivided, and the joint responsibility is maintained. Under this process the estate ceases to be zamíndárí, or imperfect pattídárí, and becomes pattidárí. This kind of partition is in fact often what the coparceners require when they apply for batwárah. The distinction should be explained to them, and if they prefer the imperfect partition, the [case should be dealt with in accordance with the rules for effecting this process, framed by the Local Government under Section 65 of the Punjab Land Revenue Act, 1871].

159. (171). It is evident that the course to be followed and the principles to be observed, whether in the complete division of an estate, or the imperfect partition of properties,

are the same. The separate portions of the estate are to be in conformity with the rights possesed by the parties, and the distribution of the Government demand over the several portions is to be equable. In the former case, however, greater caution is necessary than in the latter, because, as the joint responsibility of the coparceners is dissolved, the interests of the Government are concerned in providing that the distribution be equable Collusive and unfair divisions, by burthening one portion of the estate with an excessive demand, would cause a loss to the Government of part of its just revenue. [Hence, when the Financial Commissioner sanctions the complete division of an estate during the currency of a Settlement of the Land Revenue, it is laid down as a condition, subject to which the sanction is given, that * where the revenue is fraudulently or erroneously distributed when the partition is made, the Local Government may, within twelve years from the date of confirmation of the partition, order the revenue to be reallotted upon the several estates on an estimate of the gross produce at the time of partition, based on the best evidence and information procurable. The Financial Commissioner may also impose such other conditions as he thinks fit.]

160. (173). The mode of making either the complete division or the imperfect partition of a coparcenary estate will vary according to the nature of the tenure.

161. (174). In zamíndárí estates, *i. e.*, "in joint estates held in common tenancy, where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands forming part of the estate," † the whole estate, after deducting, in the case of an imperfect partition, any land which it is determined to retain as common property, will be divided into portions corresponding with the shares of the parties, and assigned to each, either by their consent or the award of arbitrators, or by lot.

162. (175). In imperfect pattídárí estates. *i. e.*, in those where part of the land is held in common and part in severalty, the several possessions should be maintained as much as possible if the parties require it, and the inequalities made up by allotments of the common land. In imperfect partitions such an arrangement as this is peculiarly desirable, but in complete

* Rules for Partition of Estates, No. 1.

† See Section 30, Regulation XIX, 1814.

divisions, where the lands held in severalty by the same person are distant from one another, it will be better if the coparceners can be prevailed upon to relinquish their old lands, and to make an entirely new allotment, so that each new estate may be compact. Difficulty will often be experienced in this class of cases in determining the rule by which the land or the rights held in common, such as the sayer, &c, are to be divided. Probably the ancestral shares are known and partly recognized, but the separate holdings are not in conformity therewith. Those who have holdings larger than their fractional share will claim division according to their lands, whilst those who have less will claim division according to their shares [It will generally have been stated in the village administration paper whether the division of the common land should be regulated by ancestral or other recognized shares, or by the extent of the separate holdings of the coparceners, and in the former case, whether the coparceners are entitled to have any deficiency in their separate holdings made up out of the common land. If the rule thus laid down is not disputed, no difficulty can arise. But its correctness may be called in question, and if this is done, time must be allowed to enable the parties interested to have their rights determined by a suit in the Civil Court.* In the case of an imperfect partition, the proceedings may be resumed if no suit be brought within the time so given; but in the case of a complete division inconvenience would be caused if, after separate estates had been formed, the party objecting to the principle on which the partition was made should obtain a decree entitling him to lands included in an estate assigned to others, and therefore the partition cannot be carried out until the objection has been removed, either by one of the parties obtaining a decree, or by common consent of all.]

163. (176). In pattídárí estates, where the lands are already partitioned and held in severalty by the different proprietors, entire division of the estate, involving complete separation of interests, is the only operation that can be desired, for imperfect partition is supposed to have been already completed. Some caution is necessary in the recognition of a tenure as belonging to this class. The lands are often said to be partitioned and the properties to be separate, when in fact a considerable portion of the land is still undivided, and when the estate should be designated as imperfect pattídárí.

* Rules for Imperfect Partition, Nos. 4 and 5; Rules for Partition of Estates Nos. 7.

164. (177). It may happen that, even in a pure pattídárí mahál, the rights of the parties are expressed in fractional shares of the whole, and these shares may be admitted by all parties to have been the original measure of the rights of the coparceners. Subsequently, however, to partition according to these shares, the value of the several holdings may have become unequal. The owners of the less valuable lands may claim a complete division, in order to obtain repartition according to the shares, whilst the holders of the more valuable lands will resist any such alteration of existing holdings. [Reallotment of the land according to shares may be provided for in the administration paper, in which case the procedure will be that already explained in para. 162. In other cases the Revenue authorities can only make a division according to the existing holdings, adjusting the Government demand upon the separate estates formed, according to their value at the time, without reference to the previous distribution of the revenue over the holdings.] On no account are the several portions to be declared separate mahálś, with the assessment allotted to each at the time of settlement, unless it be found on enquiry that the allotment then made is still in accordance with the actual net produce. The observance of this rule is essential to the security of the Government revenue in joint estates, but it is likely to occasion much opposition to the division on the part of those who possess profitable portions of the estate, on terms more favorable than they would have if the assessment were equally distributed according to the existing assets.

165. (178). When the rights of the coparceners in a pattídárí estate consist of certain fields within the area of the mahál, on which the Government demand is distributed by local custom, division of estate or reallotment of the demand will be claimed, whenever from any cause the demand presses more heavily on some properties than on others. [This can rarely, if ever, be considered a sufficient reason for allowing a partition of the estate, where such partition is not desirable on other grounds.* A readjustment of the revenue demand upon

* In the first regular settlements of Bundelkhand, where Bhyáchárah estates (known as Bhej-barár from the redistribution of the revenue demand amongst the coparceners, under certain conditions, being one of the incidents of the tenure,) were numerous, and often of enormous size, but with well-defined and long recognized subdivisions, it was in many cases thought expedient to constitute the main subdivisions of these large estates into independent estates, as these large brotherhoods, holding extensive areas, were found to act as a constant impediment to the collections—Mr. Allen's Report on Hamírpur, para. 75, and Mr. (now Sir) W. Muir's Report on the Calpi Pargannahs, paras. 156 to 159; Vol. II of Reports on the Revenue Settlements of the North-Western Provinces, pages 811—812 and 867—868; v. also pages 871—880.

the several holdings without dividing the estate may have been provided for in the village administration paper, and where this is the case, the readjustment may be effected under the terms there laid down, care being taken that it should be in accordance with the existing assets of the several holdings.

166. [Where complete division of an estate has been effected, the same fees which are charged for mutations of names should be levied from the parties, in addition to any expenses incurred for the purposes of the partition.]

167. (185). *IV. Mutation of Names—(Dákhil khárij cases)*—This process has no judicial character It is the mere declaration of a fact. It is the entry in the register of the proprietor, or representatives of the proprietary body, *i. e*, of the persons to whom the Collector is to look as responsible for payment of the Government revenue, and whom he is to recognize as authorized to collect the rents of the estate and manage its affairs. But there is a constant tendency to regard the act as judicial, and as being necessary to the exercise of a right, whereas it is simply the consequence of a successfully asserted claim. This mistake will be liable to occur unless the principle on which the registers are made is well understood. It is necessary then to enquire whose name should be entered on the list, and in what manner the entry should be made.

168. (186). The proprietors entitled to registry are those who pay direct to Government the revenue due from the mahál, and are commonly called sadr málguzárs or lambardárs. They are so either in their own right, or as the representatives of a village community.

169. (187). The person whose name should be entered in his own right is the proprietor *de facto*, *i. e.*, the person in apparent and acknowledged proprietary possession. This appears from the necessity of the case. The register must be compiled on some uniform plan. It would be impossible to make it a complete and correct register of proprietors *de jure*, because right as separate from possession is an obscure matter, difficult of ascertainment, and falling entirely within the province of the Civil Courts, and beyond the cognizance of a Collector. To enter in the registers sometimes proprietors *de jure*, and at other times proprietors *de facto*, would cause confusion, and deprive the register of its proper character, as uniformly exhibiting the same class of facts. It therefore results that the latter only should be entered.

170. (188). But cases occur where the acknowledged proprietor is not the manager of the estate, and consequently is not the person to whom the Collector is to look as primarily responsible for payment of the Government revenue, and whom he is to recognize as authorized to collect the rents of the estate. For instance, an agent often manages an estate for his principal, a son for his father, or a guardian for his ward The real acknowledged proprietor may be temporarily out of possession, and his right may be transferred for a time to another, as, for instance, to a mortgagee, a Government farmer, or an administrator appointed by the Civil Court. To meet these cases, columns are provided in the málguzárí register for showing both the proprietor and the manager When the proprietor manages his own property, the latter column will be blank. In private leases, given by the proprietor, a stipulation is sometimes made in the lease that the lessee shall pay the Government revenue and manage the estate In such cases the name of the lessee would appear as manager, but if the proprietor continue to pay the Government demand himself, there will be no such entry.

171. (189) Changes may occur either of proprietor or of manager, and both should be shown. For instance, in a mortgaged estate, the mortgagee is entirely responsible for the Government revenue, and yet the equity of redemption is a legal right possessed by the mortgagor, and is capable of transfer The mortgagor is entitled to claim that such transfer should be shown in the Government registers It may be shown in the column headed proprietor, without in any way affecting the title or possession of the mortgagee, whose name as manager will be retained in the register.

172. [Where the proprietors whose names appear in the málguzárí register are not the owners of the whole estate in their own right, but merely the representatives of the proprietary body, only changes in such representatives will be shown. The names of all the proprietors, however, appear in the village record of rights, and in the Patwárí's annual papers, and any changes which occur are registered in the latter, and in a register of mutations kept up at the tahsil. Changes of sub-proprietors, or of tenants with rights of occupancy, are registered in the same way. The following remarks are equally applicable to these mutations as to mutations in the málguzárí register.]

173. (190). Mutations of names in the register take place on any change of proprietary right or of management. This

sometimes happens under order of judicial or executive authority, as by decree of Court, or in consequence of sales by public auction, either in satisfaction of decrees, or on account of arrears of Land Revenue, or further, in consequence of temporary exclusion from management on account of default. In all these cases it is consequent on the order of the directing authority, and involves no reference to the parties concerned. If the registers are properly kept up and show the persons in actual possession, there will be no difficulty in making the mutation of names.

174. (191) Changes of proprietary right or of management also happen by act of the parties, such as sale, mortgage, gift, &c. It is usual in such cases for the two parties to the transfer to appear together, and both to request that the mutation of names take place. In such cases notification of the intended mutation should be made at the district office and in the village, and 15 clear days should be allowed for objectors to appear. A report of all the circumstances should also be required from the Tahsíldár of the pargannh. If it then appear that there is no objection to the transfer, the desired mutation may be made, and the actual change of possession will occur either simultaneously or immediately after. There is evidently no objection to such a course of proceeding. It is a convenient method by which intending purchasers can ascertain whether any person is likely to oppose the sale. But it by no means necessarily follows that transfers can only be effected in this manner, nor do objections raised in consequence of the notification always bar the transfer. It may also happen that, notwithstanding the mutation of names, circumstances will arise to prevent the actual transfer, and in that case the mutation of names in the register will have to be cancelled.

175. (192) Perplexing cases of disputed transfers sometimes arise. Persons may allege that certain property has been transferred to them, and may apply to be registered as proprietors; whilst the persons whose names formerly stood in the registers as proprietors may deny the transfer. The point in such case to be ascertained is "*the truth of the transfer*." If the transfer "shall appear to have taken place," the mutation of names must follow. It is not necessary that the former proprietors should consent to the mutation of names, nor that the transferee should prove the transfer to be a rightful one, because these entries in no way affect the rights of any party whose name may be registered as the ostensible proprietor of the land,

or whose name may not have been registered, but who may establish a right of property in the Civil Courts, or otherwise. The fact of the transfer cannot be altered by the Collector, and his entry of the fact in his register neither strengthens the title of the transferee, nor weakens the right of the former proprietor.

176. (194.) In coparcenary estates a right of pre-emption generally exists on the part of each coparcener in the event of the sale of a share Provision is made for the enforcement of this right by Section 14, Act XXIII of 1861 on the occasion of the sale of the right and interests of a coparcener in satisfaction of a decree of Court. Section 11 of the Punjab Laws Act, 1872 (Act IV of 1872) establishes a presumption in favor of its existence in village communities, and Sections 9, 10, 13, 14, and 17 to 20 define the nature of the right, the transactions to which it extends, and the persons entitled to claim it, and provide for its enforcement. The existence of this right also generally forms the subject of stipulation in the administration paper at the time of settlement There does not, however, exist any summary process for its assertion, except in the case of sales by public auction. If then, in cases of private sale a coparcener objects and claims the right of pre-emption before the Collector, mutation of names must not be made unless it be certain that an actual transfer has been effected But if this be undoubted, the mutation of names in the register cannot be refused.* The remedy of the party claiming pre-emption lies in suit before the Civil Court. The petition to the Collector remains as a protest on his part against the transaction, and as a proof that he made every possible exertion for the assertion of his right at the proper time.

177. (195). In cases of succession by inheritance there is this difficulty, that the possession of the former proprietor suddenly terminates, and that there may be doubts who, out of many claimants, is the successor. The Collector can in such case only make the mutation if a claimant of the succession obtains complete possession An authoritative order of the Civil Court is sure quickly to terminate all doubts as to the person whose name is to be entered.

178. [Registrars of deeds were formerly required to notify the execution of deeds affecting rights in land to the District

* When the transferee is not a member of the village community, the sanction of the Commissioner to the mutation is required, and provision is made for postponing it, to enable parties claiming pre-emption to sue for it, unless due opportunity appears to have been given to the members of the village community to exercise their right of pre-emption.—Rule 9 of the Rules under Section 40 of the Punjab Land Revenue Act, 1871.

Officer, but no mutation could be made in the Revenue registers until the provisions of the deeds were carried into effect, and such notification is not prescribed by the present Registration Act.* When a transfer has been completed, it becomes the duty of the parties to the transfer to report it, and it is further part of the duty of the Patwárí, at the time of preparing his annual papers, to ascertain whether any unreported transfers have taken place, and if he discover any, to report them Successions caused by the death of the previous holder are also reported by the Patwárí when they occur. And the Kánúngo is required to satisfy himself that all changes are duly entered in the Patwárí's papers and reported, and to bring all changes affecting the mutation registers before the Tahsíldár for orders †

179 [By Section 21 of the Punjab Laws Act, 1872, it is made the duty of "every Judge of a Civil Court, in which a decree affecting the proprietary right in or possession of land is passed," to "cause a certified copy of such decree to be forwarded to the Deputy Commissioner of the District within a month from the date of making it" No mutation, however, will take place until possession has been given under the decree]

180 (197) Proprietors entered in the registers, not in their own right, but as representatives of the village community, do not necessarily possess a heritable or transferable right in the management of the estate [Whether the office is hereditary or elective, the succession is subject to the confirmation of the Deputy Commissioner] In paras to of the Directions for Settlement Officers, the position of the lambardár has been explained Whenever the name of one of these proprietors is to be changed, a reference should be made to the administration paper of the village, as declaratory of the custom in such cases, and the custom should be enforced, [so far as it is consistent with the rules in regard to the appointment of lambardárs made by the Local Government under Section 6 of the Punjab Land Revenue Act. Those rules prohibit election, unless very special reasons for allowing it exist.]

181. (198). The practice regarding these cases of mutation of names has been so often erroneous, that it is necessary

* Act VIII of 1871

† Mutation rules and rules relating to the duties of Patwáris and Kánúngos under Act XXXIII of 1871.

to point out the more generally prevalent errors, and the correct course which should be followed.

182. (199). Entry of name in the register (khárij dákhil) has often been considered a privilege to which a rightful proprietor is entitled. It has not been made except on his application, and has been deferred till full satisfaction has been obtained regarding his right as well as his possession, and till he has paid the fees prescribed.* He is then called upon to sign a fresh engagement for the payment of the jama of the mahál; and when all these conditions have been fulfilled, the name of the former proprietor has been declared excluded, and that of the new proprietor entered. This may even have been done without the existence of any regular registers in which the mutation could be made.

183. (200). In truth, however, the mutation of names in register is a duty incumbent on the Collector without reference to the wishes of any party. He is bound, by means of the establishment placed at his disposal, to keep himself apprised of all changes of property. On satisfying himself of their actual occurrence, he is bound to make the corresponding mutations of names in his registers, and to levy the fees appropriated by the legislature for the maintenance of his records. Unless he punctually performs this duty, his registers will lose their value, and will cease to be the accurate record of facts, which they are designed to be. The execution of a new engagement for payment of the Land Revenue is unnecessary, because no private transfer affects the right of Government to realise its demand from the land itself, or from the property of the occupant proprietor.

184. [*V. Bringing villages on the Revenue-roll.*—New villages can only be added to the Revenue-roll, either by transfer from other districts, or by the location of new villages in waste land sold or granted by Government, or where, by the custom prevailing on a river, proprietors of villages the land of which has been entirely carried away by the river, get any land afterwards formed in the same situation. The complete partition of an estate does not necessarily lead to the formation of new villages, but where a new village site has been founded on land which has been formed into a separate estate, it may sometimes be convenient to treat it as a distinct village. Villages held revenue-free have been assessed, and appear in the málguzárí

* See Rules under Section 40 of Act XXXIII of 1871, (the Punjab Land Revenue Act,) Nos. 13 and 14.

register as villages the revenue of which has been assigned. On the lapse of the assignment, it is only necessary, therefore, to show the assessment on the Revenue-roll of the year immediately following and succeeding years as payable to Government.

185. [Transfers of villages from other districts may occur either under the operation of the deep stream boundary rule which has been established on the river Sutlej,* or by order of the Local Government under Act VI of 1867.

186. [In some parts of the Punjab considerable tracts of waste land have been excluded from the settlement, and are at the disposal of Government. With the sanction of the Government of India, many grants of such lands have been made as rewards for conspicuous service to individuals undertaking to found villages in them. When it is proposed to sell or otherwise deal with such land on account of Government, an advertisement of the intended sale or other disposition of the land must be issued, allowing a period of not less than three months,† during which claims to them, or objections taken to the sale or other disposition of the land, may be preferred. Act XXIII of 1863 provides for the procedure to be followed if any claim or objection be received. Rules for the sale of waste lands in the Punjab were published by Punjab Government Notification No. 635, dated 16th September 1865, and are to be found in Appendix No. XVIII. It is to be noted, however, that, while these rules contemplate sale free of liability for Land Revenue, the Supreme Government has recently ordered ‡ that "pending a revision of the rules for the disposal of waste lands," no more land "be sold revenue-free in perpetuity without the previous sanction in each case of the Government of India, excepting only such small plots, not exceeding ten acres in extent, as may be required for buildings or gardens." Rules for the lease of such lands were issued by the Financial Commissioner in 1868, and some additions and amendments were made in 1869 and 1871. § These rules, as they at present stand, will also be found in appendix No. XIX.

187. [The extent of each allotment put up for sale or lease is ordinarily limited to 3,000 acres. Before the land is made over to the grantee, a map should be prepared and good boun-

* Panjáb Government Notificatins, No. 197 dated 6th February 1869, and No. 344, dated 6th March 1869.

† Act XXIII of 1863, Section 1.

‡ No. 4—737 dated 10th August 1872, from Secretary to Government of India, Department of Agriculture, Revenue, and Commerce, to Secretary to Government Punjab.

§ Financial Commissioner's Book Circulars No. XI of 1868, No. XX of 1869 and No. XII of 1871.

dary marks erected at his expense. When the land is sold or granted in proprietary right, the allotment will take its place on the Revenue-roll under such name as the owner may desire. "The alienation of all Government land, whether actually paying revenue or not, except grants of waste land under the approved rules," in all cases requires the sanction of the Local Government. If the full value exceeds Rs 10,000, the sanction of the Government of India is always necessary. The sanction of the Government of India must be previously obtained if the lands are sold on favorable terms for a public purpose, and the full value exceeds Rs 1,000, and where lands are so sold, the recipient must in no case pay less than half the full market value. The same sanction is necessary if land exceeding in value Rs. 3,000 are "given as a site for the construction of Government schools, hospitals, dispensaries or other public works at the cost of recognized Local Funds," or if lands exceeding in value Rs. 500 are "given for any other public purpose, or to a private individual for services to be performed to the State;" or if lands exceeding Rs. 100 in value are given for services to be performed to the community, "and *in all* cases of grants to individuals for their private benefit, irrespective of any services to be performed" *

188 | *VI Removal of villages from the Revenue-roll*—Instances of the entire removal of a village from the Revenue-roll can seldom occur. Villages transferred to other districts must be taken off the Revenue-roll of the district from which they are transferred. A whole village may be swept away by a river, and in this case it can never be brought back upon the Revenue-roll unless by the custom of the locality the original owners are entitled to recover possession when land is afterwards formed on the same site. Where such custom does not prevail, any land subsequently thrown up by the river will be an increment to the adjacent villages. A grant of waste lands, if thrown upon the hands of Government by the failure of the grantee to fulfil the terms on which the grant was made, may have to be removed from the Revenue-roll. Villages, the settlement of which has not been taken up by the proprietors, or of which the settlement has been cancelled for arrears of revenue, will not be excluded from the Revenue-roll.† Assignments of Land Revenue do not affect the Revenue-roll, the assessment remaining in force, but being due to the assignee instead of the Government.

* Resolution of Government of India, Department of Agriculture, Revenue, and Commerce, No. 1—145 dated 1st February 1872, circulated with Financial Commissioner's Book Circular No. III of 1872.

† Cust's Punjab Revenue Manual, page 167.

189 (207). *VII Alteration of the assessment of villages.*—[Under the terms of the settlement engagement the proprietors with whom the settlement of an estate is made are entitled to all the profit they can make on the land included within the recorded boundary of the estate over and above the Government, demand during the term of settlement.] No inaccuracy in the khasrah, which may show a greater or less extent of cultivated land than existed at the time of the field measurements, can affect the terms of the contract If fields are fraudulently omitted from the khasrah, the village map and record must be amended, and the Patwári and other persons who may have *been parties to the fraud are liable to punishment, but the* assessment, when once sanctioned by the Government, cannot on this account be increased The professional map is generally a faithful record of the boundary and area of village lands, and the only possible case in which a claim for additional revenue on land held in excess of the settled area (*taufír*) can be made good, is when land may be found which has been excluded from both of two contiguous professional surveys

190 (208) There are, however, many causes constantly in operation which may occasion alterations in the revenue demand of villages on the Revenue-roll The most common causes are the following —

1. Alteration of area by alluvion or diluvion;
2. Remissions on account of land taken for public purposes;
3. Reduction on account of ascertained over-assessment,
4. Partial forfeiture of land included in a grant,
5. Resumption of revenue-free plots;
6. Restoration of land taken up for public purposes;
7. Transfer of land by decree of Court from one mauzah to another.

A few remarks will be necessary on each of these subjects.

191. (209) *I—Alteration of area by alluvion and diluvion.*—The settlement of every village having been made after survey, it is always easy to ascertain how much land a village has lost by the encroachment of a river, or gained by its desertion of the former channel. In most cases, at the time of settlement, a special rule has been laid down to regulate the

assessment in each of these events. [General rules have also been prescribed by the Local Government under Section 41 of the Punjab Land Revenue Act, 1871, as to the procedure to be followed in the assessment of land affected by alluvion, diluvion, or other river action.

192. [The importance of this subject in the Punjab can scarcely be exaggerated. Besides the alterations in the area of estate annually produced by the encroachment or recession of the great rivers, the value of the land may be materially affected. The culturable area may be rendered unculturable or its productive powers greatly diminished by a deposit of sand; on the other hand, unculturable land may be rendered culturable, or culturable land may be much improved by deposits of fertile soil, or from a change in the course of the river, land entered as alluvial (sailábá) may cease to answer that description. The crops are also often destroyed or injured by inundation. Again, injury is frequently caused by mountain torrents, which, when swollen by rain, cut away or bury in sand land previously culturable, while at other times they may prove a source of benefit by removing a deposit of sand, or by leaving a fertile deposit.

193. [Subject to local rules, providing that increase or decrease in the culturable area falling below a specified proportion shall not be taken into account, Government is entitled to bring under assessment all lands recorded as unculturable at settlement, and subsequently made culturable by river action, as well as culturable land subsequently gained by accretion from the river bed. There may also be cases in which land recorded as culturable and assessed at settlement, but which was considered not to have reached its full productive powers, was assessed at a rate below that ordinarily paid by alluvial land in the neighbourhood, provision being made for the assessment being increased as the land improves in value, until it reaches the full settlement rate. In the absence of such a provision, the assessment of land included in the assessed area at settlement will not be increased, nor will culturable waste included at settlement in the malguzárí area be brought under assessment. If the amount of revenue assessed on an estate, or on an alluvial subdivision of an estate, for which a separate assessment has been fixed, is increased, the proprietors are at liberty to refuse to accept the assessment, but such refusal has the effect of throwing the whole estate open to resettlement unless when the alluvial subdivision is separately assessed, in which case it has the effect of a refusal to accept the settlement of the alluvial subdivision.

194. (211). [If reduction of revenue is claimed on account of diluvion or injury caused by river action, the whole estate or whole alluvial subdivision, as the case may be, becomes liable to reassessment upon its existing assets.] If these are found to be from any cause larger than, or as large as they were estimated to be at time of settlement, the proprietors are not entitled to a reduction. If less, a proportionate reduction will be allowed, the revenue being calculated upon the existing assets in the same manner as when the settlement originally took place. [In ordinary cases, however, this liability is not enforced, only changes actually brought about by the action of the river being considered. The principle is maintained mainly as a check upon claims for a reduction of revenue, where the profits of the proprietors have manifestly not decreased.]

195. (213). Cases of diluvion will always be brought to notice by the owners of the land, but efforts will be made to conceal cases of alluvion. Claims of this nature must not be vexatiously advanced, but neither should they be carelessly neglected.

196. Enhancements of revenue on account of alluvion or reductions on account of diluvion must be sanctioned by the Financial Commissioner before alteration of the Revenue-roll. Reductions generally involve the remission of the current demand of Land Revenue for one or both seasons, which has to be written off under the authority of the Financial Commissioner as a nominal balance. In the case of injury to crops by inundation, only a remission is necessary. No difficulty in preparing the Revenue-roll arises in the case of alluvial subdivisions, the settlement of which is annual, as under Section 38 of the Punjab Land Revenue Act, 1871, persons continuing to occupy after the expiration of the term of settlement hold under the conditions of the expired settlement until a new settlement is made. The revenue demand of the previous year will therefore continue to be shown in the Revenue-roll until an alteration is sanctioned.

197. The effect of alluvion or diluvion upon revenue-free estates or plots is determined by numbers 32 and 33 of the rules framed under the Punjab Land Revenue Act, 1871, Section 41.

198. (215). *Remission on account of land taken up for public purposes.*—The Land Acquisition Act, No. X of 1870, *

* See also the Northern India Canal and Drainage Act, No. VIII of 1873, Sections 7 to 13. Instructions as to the procedure to be followed in taking up land will be found in Appendix No. XX.

contains the law as to the mode of taking up land for public purposes, and as to the determination of the amount of compensation to be paid. When land, subject to the payment of revenue, is permanently taken up, the revenue demand on it will cease, and sanction to a reduction of the Revenue-roll must be applied for. The amount of revenue to be reduced must be calculated according to the Land Revenue apportioned on the plots taken up, or if, in the distribution of the assessment, no specific amount has been charged to them, the settlement rate of the village for the particular class of land should be applied. * The compensation payable to assignees of Land Revenue should be calculated upon the same principles as the compensation payable to proprietors or tenants, due regard being had to the nature of their rights in the land, if any, and to the terms of the grant under which they hold. In a coparcenary estate, where the holdings are separately possessed by the proprietors, it may also be necessary to determine whether the owners of the land taken up are entitled to receive other land in the village, and to adjust the payment of the compensation and the reduction of revenue accordingly. † It will generally be possible to decide questions of this nature by the agreement of the parties, or, if they are unable to agree, by arbitration with their consent Where this is impossible, they must be left to have recourse to the Civil Courts to decide their relative rights. The adjustment of the compensation payable to tenants is provided for by the Act, but private agreement between proprietor and tenant may render it unnecessary to assign separate compensation to the latter]

* Financial Commissioner's Book Circular No. XV of 1870, paras. 23 and 24.

† Detailed instructions on this point were given in the subjoined para. of a letter from the W N. P Government, to the Secretary to the Board of Revenue, No. 566 dated 15th February 1848, the spirit of which was directed to be followed in the Punjab by the Board of Administration's Circular No. 48 of 1850 :—

"*9th.* Collectors of Land Revenue will need to bear in mind that the occupation of land for Government purposes in this manner tends in most coparcenary villages to disturb the existing relations amongst the several sharers, and to give rise to disputes, which may be detrimental to the prosperity of the whole proprietary body. Whenever the land is divided and separately possessed by the several coparceners, the party whose land is taken will be entitled either to the possession of other land in the village, or to the benefit of the entire remission on his own holding. It will be requisite therefore in such cases, not only to remit a certain amount of the Government demand, but also to declare in what way the particular individual or patti is to be compensated for the land which has been occupied. Whenever the rights in a village are according to ancestral shares, it may possibly happen that the occupation of any considerable portion of the cultivated lands of a village will involve the partition and reallotment of the whole lands. The Collector should be required to state in his report that he has adverted to this particular feature of each case, and has made provision for it."

199. (217). *III.—Reduction of jama on account of over-assessment.*—The circumstances under which this may be necessary have already been explained in paragraph 42 of this treatise. The form in which they are to be shown has also been given in Appendix No. IV.

200. [*IV.—Partial forfeiture of land included in a grant.*—Grants or leases of waste land have frequently been made upon the condition that a certain proportion of the area should be brought under cultivation within a limited period. On failure to fulfil this or other terms of the grant, it becomes liable to resumption, or if part only of the stipulated area has been brought under cultivation, the grantee may be entitled to retain a proportionate part of the original area, the remainder being liable to be resumed.

201 [*V.—Resumption of revenue-free plots.*—Revenue-free assignments are liable to be resumed as forfeited to Government on the commission of capital crime, or of acts of treason or disloyalty by the holder, or where they have been granted subject to a condition, as the maintenance of an institution or the construction of a road-side well or grove, on failure to comply with the condition. They lapse to Government on the expiration of the term for which the grant was made, or if the grant be hereditary, the succession being limited to a particular line of descent, on the failure of heirs in that line Rules for the settlement of such plots on lapse or resumption have been made under the powers conferred on the Local Government by Section 41 of the Punjab Land Revenue Act, 1871. The amount assessed upon them is added after the sanction of the Financial Commissioner has been obtained to the Revenue-roll of the following year.

202. [*VI.—Restoration of land taken up for public purposes.*—Lands taken up for public purposes when no longer required are ordinarily offered to the proprietors of the estate of which they originally formed part. It is optional with them to pay the price fixed, if any, and to take up the settlement or not. If they accept the terms, the new assessment becomes an increment to the Revenue-roll of the following year when sanctioned by the Financial Commissioner.

203. [The Civil Courts having no jurisdiction to set aside the boundaries of estates as fixed for purposes of settlement, their decrees will not affect the boundaries of villages or estates, but

they may establish the proprietary right of persons, who are not members of the proprietary body of a certain estate, over lands included within the boundary of that estate determined at settlement, and liable for a part of the assessment fixed upon the estate. Unless a partition be thought desirable, such lands will continue to form part of the estate to which they were attached at settlement, and to bear their share in its liabilities; and the persons in whose favor they have been decreed will be bound, as proprietors in the estate, by the terms of the settlement of the estate, while the extent of their rights in it will be determined by the decree

204. [Instructions as to the records to be maintained by patwáris (village accountants), and the returns to be furnished by them, are contained in the rules as to the duties of these officers made by the Local Government under Section 6 of the Punjab Land Revenue Act, 1871 Similar rules have also been made as to the records to be kept and the superintendence to be exercised by kánúngos, or superintendents of village accounts, over the patwáris

205 [The way in which the several entries in the málguzárí register are maintained, and the mode in which all changes of proprietary possession are shown, have now been explained. When the arrangement of the málguzárí register was alphabetical, a separate register for each parganah or tahsíl, arranged according to locality, was necessary. The adoption of the topographical arrangement for the málguzárí register now renders the parganah register unnecessary Each tahsíldár has only to keep up a duplicate of the portion of the málguzárí register which relates to the tahsíl in his charge With this may usefully be kept copies of the general statement, showing the statistics of villages as ascertained at settlement, the annual demand statement, and the general abstract of area, resources, revenue assessment, and rates in the assessment circles into which the tahsíl was divided, and a statement showing the results of the last census for each village]

206. (236). A description has now been given of a system of record and registration, which in its design is very complete, the whole machinery for the maintenance of which is in operation, and which is capable of being maintained with more or less accuracy by the exhibition of ordinary care or method. It may be useful to add a few general remarks on the subject, having special reference to the state of landed property in Northern India.

207. (237). It is unnecessary to mention the advantages which in all countries are allowed to result from the careful preservation of all documents affecting the titles to landed property. In India the Government has a direct interest in the preservation of these records, because the greatest part of its revenues is drawn from the rents of the land, or from a tax on those rents. Whatever adds to the value of landed property gives greater security to the present revenue and better hope of future increase. But the system of revenue administration in Northern India renders the subject one of peculiar importance.

208. (238). Under Native Governments the land was annually assessed, and the assessment was determined by no fixed rule, but varied according to the strength or abilities of the two parties concerned, *viz*, the receiver and the payer of the jama. In such a state of property it was unnecessary to enquire who was the owner of the land. It might be undoubted that a property in land existed, and such property might often be the subject of sale and transfer, but its value depended on the character of the Government of the day, or on the feelings of the people of the place, rather than on any fixed laws to which a certain appeal could be made.

209. (239). The British Government, by fixing its demand for a term of years at a moderate amount on certain tracts of land called mauzahs (villages or rather townships), has given an additional and definite value to the land. Whatever surplus there may be after paying the Government revenue belongs to the proprietors of the land, whether it results from increase of cultivation within the limits of the mauzah, or from improved husbandry, or from any other cause. In order, therefore, to prevent disputes and to enable each man to improve his property, it has become necessary accurately to define who is the proprietor, what is the nature and extent of his property, and to what incidents it is liable.

210. (240). This is the more necessary under the system of joint responsibility, which binds together the several members of the village communities. Under any circumstances such a kind of tenure is likely to lead to cases of hardship; but if it is desired to avoid the grossest acts of injustice, some means must be afforded for determining, in cases of default, who is the defaulting member of the community, and how far he is able to make good the demand against him.

211 (241). In the early years of British rule in the North-Western Provinces it was thought that the decisions of all questions of individual right might be left to the operation of the ordinary Courts of justice, where every person who considered himself aggrieved could claim of right a hearing of his case. It was thought that all wrongs, whether resulting directly from acts of aggression, or indirectly from the operation of the fiscal laws, might thus be always redressed. Experience, however, has proved the contrary. Twenty years had not elapsed before a special commission was appointed under Regulation I, 1821, with extraordinary powers to remedy the injustice which had already been done, and Regulation VII 1822 was enacted to prevent future wrong, by the formation of this very system of record and registration which has now been described.

212. (242) It is not surprising that the Courts of Justice failed in the performance of the duties allotted to them. The natives of this country were unaccustomed to examine general questions regarding rights of property, with a view to their classification, and to the formation of general rules applicable to them It is surprising even to this day how ill-informed native gentlemen of education and even of official experience are on the subject, unless they have been especially trained to its consideration. But still less were they able then to appreciate the change that had been effected in the old village institutions, by engrafting upon them the system and modes of procedure adopted by the British Government The English functionaries, on the other hand, understood their own rules, but had no leisure or opportunity to study the old institutions of the country. There were not, therefore, any persons, Native or European, who were sufficiently conversant with all branches of the subject to reason consistently regarding it. The Regulations of the Government afforded no information, and the numerous functionaries who were called upon to come to an immediate decision could not otherwise than be perplexed. Injustice and confusion necessarily ensued Designing men usurped rights which did belong to them, and blunders of all possible kinds were committed by those who ought to have protected the rights of the weaker parties. In such confusion litigation increased and arrears necessarily accumulated till the whole machinery of the judicial administration was choked, and it became necessary to take active measures in order to prevent the further spread of the evil. It was as necessary for the credit of the judicial, as for the safety of the revenue administration, that a systematic attempt should be made to reconcile the discordant parts of the

system, and to introduce order and certainty, where hitherto confusion and uncertainty only had reigned. Hence resulted the system of record, which was introduced by Regulation VII. 1822.

213. (243). There are some who still look with despair on the magnitude and difficulty of the undertaking. They see the country divided into small properties which are held on peculiar tenures, differing one from another to a considerable extent. They are aware of the general ignorance of the people, and they are brought into constant intercourse with some of the most crafty, designing, and unprincipled of the mass. Hence they are ready to conclude that all efforts under such circumstances to form an accurate record must be useless, and that it is better to refrain from the attempt, lest by forming an erroneous record the evil should be increased

214. (244). There is no desire to under-rate these difficulties. It is most important that every public officer should know of their existence, and be prepared to combat them It is impossible now to withdraw from the course which has been commenced, and it is the more necessary carefully to examine what causes obstruct its completion. The intention has been wisely disclaimed of making any great revolution in the disposition of property by the enactment of arbitrary laws. It has been justly determined to enquire and ascertain what are the existing rights, and to uphold them by equitable proceedings and laws. The mode in which this may be effected has been laid down by legislative enactments. Great progress has been made in its performance. It only remains now for each officer in his allotted sphere to set himself to enquire what has been done towards the accomplishment of the desired object, and how he can contribute to its furtherance.

215. (245). It should not be taken for granted that all which is necessary has already been done. The original record formed at the time of settlement may have been erroneous and imperfect, the persons selected for its preparation may not always have been the best qualified; and the work may have been performed with more rapidity than was compatible with accuracy. The mass of the people were ignorant, and may have failed to comprehend the object or nature of the proceedings, or the bearing on their position of the settlement, and they were, moreover, suspicious of any measures connected with the assessment of their lands.

216. [When a record of rights prepared at a regular settlement has been sanctioned by the Local Government, it cannot be revised until the district or local area is again brought under settlement * If the record is found to be imperfect or erroneous, a resettlement may be ordered for the purpose of revising the record, and new maps, surveys or measurements may, if necessary, be directed to be made. † The revision, however, is limited to making such alterations of the record as are rendered necessary by facts which have occurred since the date of the abstract of proceedings at the settlement, or as are agreed to by all the parties interested therein, or as are supported by judicial decision, and amending such of the documents as depend on the maps, surveys or measurements, so as to bring them into accordance with the new maps, surveys or measurements, not, however, altering any statement as to the share, holding, or status of any person, merely for this purpose

217 (253) The bulk of the records of the revenue office cannot fail to draw attention Year after year a mass of papers is sent into the office, which must crowd up any room of ordinary dimensions

[Rules have, therefore, been prepared for the systematic removal and periodical destruction of useless vernacular records, ‡ both of the District and Tahsíl offices To enable the operation to be carried on without interruption, the index of each file of papers shows in separate columns the papers to be permanently retained, and the papers to be destroyed after a certain interval; the record-keeper, on receiving the file, arranges the papers accordingly ; and, after a year has elapsed, removes the papers to be destroyed This should be done month by month, so as to allow of the clearance being effected by the ordinary establishment]

SECTION IV—*Adjudication of Suits between Landlord and Tenant.*

218 [In the Punjab the village lands are in great part cultivated by members of the proprietary body, but more or less of the area is frequently held by tenants, holding either from the village community as a whole, or from individual proprietors. Except as regards the procedure for the recovery

* Act XXXIII of 1871, Section 19.

† Act XXXIII of 1871, Sections 11 and 19.

‡ Cust's Punjab Revenue Manual, p. 183. The rules now in force will be found in Appendix No. XXI.

of rent, * the relations between landlord and tenant are regulated by the Punjab Tenancy Act, 1868, and by village custom not inconsistent with that Act, or by agreement between the parties, either in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the Local Government † At present the only means for the recovery of rent which has not been paid when due is to sue in the Civil Courts for the rent due, and to obtain execution of the decree, when it is not voluntarily satisfied, under the Civil Procedure Code

219 [The subjects provided for by the Punjab Tenancy Act are—

I. The occupancy rights of tenants,—Chapter II.

II. Enhancement, abatement and remission of rent, the commutation of rent in kind into rent in money and *vice versâ*, and when the rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other similar process, the procedure by which such division, estimate, or appraisement may be enforced,—Chapter III.

III The ejectment of tenants, whether with or without right of occupancy, and the compensation to be paid to the ejected tenant for growing crops, —Chapter IV.

IV. Relinquishment of the land by the tenant, his powers of letting and under-letting, and of alienation, and the succession to tenants having a right of occupancy in the land,—Chapter V.

V. Compensation for tenants' improvements, and the mode of barring a claim to such compensation, —Chapter VI.

220. [Claims to a right of occupancy, suits for a declaration that a tenant does not possess such right, suits for enhancement or abatement of rent, suits for the ejectment of tenants, and suits by tenants who have received notice of ejectment to contest their liability to be ejected, must be brought in

* Act XXVIII of 1868, Section 44 The Act came into force on the 21st October 1868, the date on which it received the assent of the Governor General.

† Section 2.

Civil Courts not being Courts of Small Causes, unless when Courts of Small Causes have been specially empowered to hear such cases, or if jurisdiction has been conferred, in a district in which a settlement of land revenue is in progress, upon special officers under Section 21 of the Punjab Courts' Act, 1865, these suits may be brought either before such officers, or before the officers of the district, exercising their powers on the Revenue side of their Courts.

221. [Applications for the appointment of a person to make the division of the produce or estimate or appraisement of the standing crop, when rent is taken by any such method, applications for service of notice of ejectment, applications for assistance to eject a tenant after he has received such notice, and applications by tenants for service of notice of relinquishment on the landlord, are to be considered proceedings on the revenue side, and to be disposed of by Revenue officers. *

222. [Section 18 of the Act allows a suit to be brought to set aside the award of a person appointed to make the division of the produce, or estimate or appraisement of the standing crop for the purposes of rent, within three months from the date of the award. From the use of the word "suit," taken in connection with the terms of Section 1 of the Civil Procedure Code, it may be inferred that the jurisdiction rests with the Civil Courts.

223. [Applications for the determination of the amount of compensation to be paid by a landlord for improvements made by his tenant are also provided for by the Act, † but it does not state by what class of courts or officers such applications shall be received, further than by describing them as applications "to the Court." ‡ In calling attention to the provisions of the Act shortly after it came into force, the Punjab Government expressed its opinion that it was intended that the compensation to be paid should be determined by the Civil Courts, and it is not known that this view has ever been called in question.

224. [Other sections of the Act declare the rights and liabilities which arise under certain circumstances, and causes of action may spring from the legal rights thus declared; but as the Act contains no special provisions for the enforcement

* Act XXVIII of 1868, Section 42.

† Ib, Section 40.

‡ Applications under Section 17, which are proceedings on the Revenue side, are similarly described.

of these rights, it follows that suits relating to them must be brought in the Civil Courts, and under the ordinary procedure.

225. [As it is important that all Revenue officers should be well acquainted with the provisions of the Punjab Tenancy Act, whether those provisions contemplate a reference to the Civil Courts or to Revenue officers, a full account of them will be given here, without regard to the nature of the jurisdiction with which it rests to enforce them.

226 [*I. The occupancy rights of tenants.*—Tenants having a right of occupancy in the land held by them fall into two main classes according to the origin of the right. The first class consists of those who are deemed to have a right of occupancy under Section 5 of the Act; *i. e.*, it includes every tenant who—

"(1) has heretofore paid no rent and rendered no service, in respect of the land occupied by him, to the proprietor thereof for the time being, beyond the amount of land revenue and village cesses for the time being chargeable thereon, and whose father and grandfather, uncle and granduncle, occupying the same land, have paid no rent and rendered no service in respect thereof to such proprietor, beyond the amount aforesaid;

"(2) or who has involuntarily parted or shall involuntarily part with * proprietary rights in any land otherwise than by forfeiture to Government, and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting;

"(3) or who is, at the date of passing of this Act, the representative of a person who settled as a cultivator in the village in which the land occupied by such tenant is situate along with the founders of the village;

"(4) or who is or has been jágírdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years."

With reference to the second clause of Section 5, above cited, it requires to be noted that since the passing of the Punjab Land Revenue Act, 1871, a proprietor may be involuntarily deprived of proprietary rights, either temporarily by the cancelment of the settlement of his land for arrears under Section 52 of that Act, or permanently by the sale of his land

* This would include, for example, cases where the proprietary right had been sold in execution of decree, but the former owner continued to occupy.—*Shadi* versus *Kasim Ali*, Civil Case No. 19, in 3 Punjab Record, C. J. p 40.

for arrears of land revenue due by him,* without becoming entitled to any right of occupancy in so much of the land as is under his own occupation.

227 [The second class consists of tenants who are deemed to have a right of occupancy under Section 6 of the Punjab Tenancy Act, 1868, or who succeed in establishing such right under Section 8 It includes, therefore, "every tenant whose name appears in the record of a regular or revised settlement heretofore sanctioned by the Local Government as having a right of occupancy in land which he or the person from whom he has immediately inherited has continuously occupied from the entry of his name or the name of such person (as the case may be) in such settlement," unless the landlord succeeds in proving in a regular suit —

Presumption arising from entry in settlement record

"(1) that within the thirty years immediately before the institution of such suit, other tenants of the same class in the same or in adjacent villages have ordinarily been ejected from their holdings at the will of the landlord, or

"(2) that the tenant has voluntarily admitted† before any officer employed in making or revising a regular settlement of land revenue, or before any officer authorized to attest the entries in the record of such settlement, that he is a tenant not having a right of occupancy, and that such admission has been recorded at the time by the officer so employed or authorized," and every tenant who establishes his right of occupancy on grounds other than those specified in Sections 5 and 6.

228 [The first clause of Section 2 of the Act saves decrees of Court under which a tenant holds, and agreements between landlord and tenant, either "in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the Local Government"] Under this provision there may be rights of occupancy distinguished from those above described by having incidents annexed to them by the decree or agreement differing from those which are annexed by the terms of the Act to rights of occupancy of either class.

* See Act XXXIII of 1871, Sections 57 and 58.

† The circumstances under which the admission was made will be taken into consideration for the purpose of determining whether it was voluntary or not. Where the tenant was aware that a strong opinion was held by the Settlement Officers that occupancy right should be much restricted, and had seen the disastrous results to other tenants recorded in the first Settlement as having rights of occupancy, and therefore thought it useless to contest the wishes of his landlord, an admission made before the Superintendent of Settlement was held not to bind him—*Azim* versus *Jowala Singh*, Punjab Record J. No. 13, p. 70.

229. [Section 7 provides that when a tenant has voluntarily exchanged his land "for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of the Act, be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place."

230. [Section 9 enacts that "no tenant shall be deemed to acquire a right of occupancy by mere lapse of time" In the North-Western Provinces and other Provinces to which Act X of 1859 has been extended a right of occupancy arises from twelve years continuous holding otherwise than under a terminable lease This provision, therefore, establishes a very marked difference between the law of the Punjab and that of other parts of Northern India, as to the acquisition of occupancy rights.

231. [The same section lays down that "no right of occupancy in the common lands belonging to a pattidárí village community" can be acquired under this Chapter of the Act This, of course, does not interfere with rights of occupancy in such lands which are derived from a decree of Court previous to the passing of the Act, or from an agreement in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the Local Government, such rights being saved by the first clause of Section 2 of the Act And it has been pointed out * that it does not apply to common lands belonging to a taraf or pattí or other subdivision of a village community, but only to common lands belonging to the whole community.

232. [*II. Enhancement, abatement, and remission of rent, &c*—In a suit for arrears of rent, no tenant can be held liable to pay more rent than was payable by him in respect of the same land for the preceding agricultural year, unless he has entered into an agreement to pay more, or a decree for the enhancement of the rent has been made under the Punjab Tenancy Act. † It is sometimes forgotten that a decree for

* *Devi Ditta* versus *Allayár*, Revenue case No 2, in 6 Punjab Record, R. J, p. 3 It was also laid down in this case by the Financial Commissioner that members of the village community only are precluded from acquiring occupancy rights in the common lands, but the Chief Court has held the reverse, (*Jiwan* versus *Langar*, Civil Case No 30, in 7 Punjab Record, C J. p. 69,) and the terms of the Section are perfectly general.

† Act XXVIII of 1868, Section 10 Under a power given by this Section, it has been notified by the Lieutenant Governor that, for the purposes of this Section, the 15th June should be deem the commencement of the agricultural year.

the enhancement of rent must necessarily refer to the future only, and attempts are made to enhance rent from a past date. It would obviously be inequitable that a tenant should be held liable to pay a higher rate of rent than hitherto for a period during which he was holding without notice that an increased rent would be demanded, and the Act contains no provision for making any enhancement which may be decreed under it applicable to a period antecedent to the date of the decree Unless, therefore, a decree for enhancement has been passed before the commencement of the agricultural year, or the tenant has agreed to hold at a higher rate of rent than he was previously liable to, the amount claimed in a suit for arrears should not exceed the rent payable for the same land in the preceding agricultual year

233 [The landlord who desires to enhance the rent payable by a tenant without rights of occupancy in the land he holds can either bring him to terms, or obtain possession of the land, by causing a notice of ejectment to be served upon him at the proper time before the close of the year preceding that for which he proposes to demand an increased rent. * But if the tenant have rights of occupancy, and will not voluntarily enter into an agreement to pay rent at an enhanced rate, the landlord can only obtain an increase by suing for enhancement on one of the following grounds† :—

1st.—That the quantity of land held exceeds that for which the tenant had previously been liable to pay rent ;

2nd.—That the rate of rent paid by him is below the rate usually paid, in the same or adjoining villages, by the same class of tenants having a right of occupancy, for land of a similar description, and with similar advantages ,

3rd.—That the rate of rent paid by him falls below the rate usually paid in the neighbourhood, by tenants of the same class ‡ not having a right of occupancy, for land of a similar description and with similar advantages, by more than 50 per centum

* If the tenant have made improvements of the nature described in Section 38 of the Act, he is not liable to be ejected, nor to be required to pay an enhanced rent within 30 years from the time of making them until he has been compensated for them under Chapter VI of the Act.

† Section 11

‡ It is not very clear what is meant by tenants of the same class here.

if he belong to the class described in clause 1 of Section 5 (see para. 226), or than 30 per centum if he belong to one of the classes specified in the remaining clauses of Section 5, or than 15 per centum if he belong to the class specified in Section 6 (see para. 227).

The extent to which the rent may be enhanced in each of these cases is provided for by Sections 11 and 12 of the Act.

234 [If the tenant or any person from whom he has inherited have made improvements of the nature described in Section 38 of the Act, no enhancement can take place within 30 years of the time of making them until he has received compensation for them under Chapter VI of the Act. *

235. [In suits brought on the 2nd and 3rd of the above grounds, it should not be overlooked that the rent with which that of the defendant is compared must be that usually paid in the neighbourhood for land of a similar description and with similar advantages by the same class of tenants, in the one case having, and in the other not having, a right of occupancy It is not the highest rent paid by any tenant of the class with which the comparison is made, nor is it a rent determined by competition. A rate of rent, exceptionally high or exceptionally low, should be altogether excluded from the comparison. It is also necessary to remember the definition of rent given in Section 2 of the Act, which includes not merely the profit rent received by the owner of the land, but also the amount payable on account of Government revenue and village or other local cesses. What is to be determined is therefore the whole rent to be paid by the defendant for the future, and not only the profit rent †

* Section 37.

† When enhancement is claimed on the 3rd ground in a neighbourhood in which cash rents are rare, it may be necessary to ascertain the average value in cash of the rates of payment in kind according to which rent is usually taken from tenants not having rights of occupancy. A sufficient number of instances to give a fair average should be taken, the average amount of the owner's share of the crops, for a sufficient number of years to eliminate fluctuations caused by good or bad seasons, should be ascertained, and this should be valued at the price which past experience affords reasonable grounds for expecting to prevail on the average in future years Allowance should also be made for the fact that where cash rents are taken, the risk of bad seasons is borne entirely by the tenant, while, if payment be made in kind, the risk is divided A reasonable deduction from the estimated rent should be made on this account Such calculations are necessarily complicated, but it is impossible to avoid this.

236 [After a decree for enhancement has been passed under Section 10 (this is obviously a mistake for Section 11), no suit for further enhancement of the rent can be brought until the expiration of five years * from the date of the decree, unless in the meantime, at a general revision of regular settlement, the revenue payable for the land comprised in the decree has been increased.

237. [A tenant with right of occupancy can claim abatement of his rent only on one of the two following grounds :—†

1st.—That the area of the land in his occupation has been diminished by diluvion or otherwise, or is less than that for which he has previously paid rent ; or

2nd.—That its productive powers have been diminished by any cause beyond his control.

He is therefore not entitled to claim abatement on the ground of any comparison of the rent paid by him with that paid by other tenants with or without rights of occupancy, such comparison being resorted to only to determine whether he is liable to enhancement or not, and if so, to what extent his rent may be enhanced.

238. [Section 15 enables the Court in which an arrear of rent is sued for to allow such remission from the rent payable as may appear equitable, if the area of the land held by the tenant has been diminished by diluvion or otherwise, or if its produce has been diminished by drought or hail or other calamity beyond the tenant's control, to such an extent that the full amount of rent due cannot, in the Court's opinion, be equitably decreed. This does not apply to tenants holding under a lease, not less than five years of the term of which has still to run, or to tenants with rights of occupancy in a revenue-paying estate, unless a remission of revenue has been allowed by competent authority in respect of the same estate and on the same ground.

239. [Section 16 provides that rent in kind cannot be commuted into rent in money, nor *vice versâ*, without the consent of both landlord and tenant. Neither party therefore can claim to have such commutation effected, and if it take place by agreement between the parties, neither can claim a return to the former mode of payment.

* Section 13.
† Section 14.

240. [If the rent is taken in kind, by division of the crop, (*battai*), or by estimate or appraisement of the standing crop, (*kankut*), it becomes due when the crops ripen, and it is the duty of both landlord and cultivator to be present, in person or by agent, at the proper time for making the division, estimate, or appraisement. If either party neglects to be present at the proper period, when the rent is taken by either of these methods or by other process of similar nature requiring the presence of the parties, or if a dispute arises between the parties, regarding the division, estimate, or appraisement, either may apply to the Court (which here means the Revenue authorities) to depute a proper person to make it. On such application being received, with a deposit of costs, notice is issued to the other party, fixing a time for his attendance, and a proper person is deputed to make the division, estimate, or appraisement, and to determine by whom the costs should be borne. Within three months from the date of the award of such person, either party may institute a suit to set it aside, otherwise it becomes final. *

241. [*III. The ejectment of tenants*—No tenant can be ejected from land in which he has a right of occupancy otherwise than in execution of a decree. † If he or the person from whom he has inherited has made improvements of the nature described in Section 38 of the Act within the last 30 years, he cannot be ejected until he have received compensation ‡ for them under Chapter VI of the Act.

242.. [A decree for ejectment cannot be made against a tenant having a right of occupancy under Section 5 of the Act (see para. 226), nor against a tenant having a right of occupancy under Section 6 (see para. 227), when he or the person from whom he has inherited has continuously occupied the land for 30 years or upwards, unless he has failed to satisfy for fifteen days or more a decree passed against him for an arrear of rent in respect of the land, § A decree may be made for the ejectment of a tenant having a right of occupancy under Section 6, where the occupancy has been of shorter duration than 30 years, if the landlord tenders to him "in addition to any compensation to which he may be entitled" for growing crops or improvements, but subject to

* Act XXVIII of 1868, Sections 16 and 17.

† Section 19.

‡ Section 37.

§ The Chief Court in a Book Circular No. VI dated 15th March 1873, has instructed Courts passing decrees for arrears of rent against tenants with right of occupancy, to warn them of the risk they will incur if they fail to satisfy the decree within 15 days, and to advise them to pay the amount into Court.

the deduction of arrears of rent, if any, "such compensation as the Court thinks fit, not less than 15 and not more than 30 times the net annual profits receivable by the tenant in respect of such land," calculated "on an average of the three years next before the date of the tender" This is the only case in which a right of occupancy can be extinguished without the tenant's consent, while he does not allow the rent to fall into arrear It will be observed also that it is necessary to institute a suit for ejectment if a landlord desires to eject the tenant on the ground that a decree for arrear of rent has remained unsatisfied for fifteen days or more.

243 [A tenant not having a right of occupancy may be ejected by the landlord (unless entitled to compensation for improvements) when a decree has been obtained against him * either for arrears of rent or for ejectment. His tenancy may also be determined, unless he is holding under an unexpired lease, or an agreement, or a decree of Court, by giving him notice, on or before 15th of April preceding the close of the agricultural year, in accordance with the provisions of Sections 22 and 23 of the Act This notice is served at the landlord's expense on application to the Tahsíldár or other officer authorized to serve such notices.

244 [The tenant may contest his liability to be ejected by suit instituted on or before the 15th day of May, † but if he fail to do so, or if the suit be dismissed, the landlord may claim the assistance of a Revenue Court to eject him ‡ Such assistance, however, does not preclude the tenant from instituting a suit against his landlord for illegal ejectment, and recovering compensation for the same

245. [The ejectment of a tenant, of whatever class, can only take place between the 15th day of April and the 15th day of June, unless, while the rent is in arrear, the tenant has failed to cultivate the land in accordance with the terms on which he holds it.

246. [The tenant, when ejected, is entitled to receive from the landlord § the value of any growing crops or other

* Section 20.

† This and the preceding date may be altered by order of the Lieutenant Governor,—Section 24. A tenant recorded as not having a right of occupancy, and ejected as much, but who claims a right of occupancy, is not debarred by failure to contest his liability under this provision from suing to establish his right of occupancy within the general law of limitation, which is 12 years.—*Nainsukh and others* versus *Hira Singh*, 8 Panjáb Record. C. J. No. 44, p. 68,

‡ Section 26,—See also Section 42.

§ Section 27.