

13. Under Direction 6 Assistant Collectors of the first and second classes have been empowered to hear such claims as are referred to in Direction 12 when the claims are between private individuals and not against the State. It should be borne in mind that such claims relating to State land can be allowed only in so far as they do not come into conflict with the orders contained in Directions 92 to 94, and with any other orders dealing with the transfer or sub-letting of State land which may be issued by Government from time to time, for the position and interests of Government as the landlord of all State lands should never be lost sight of.

14. Section 29 (d) empowers the Collector to eject in all cases any one occupying State land without permission. The permission here referred to is an express permission, not merely the tacit acceptance of land revenue. Every occupier of State land whether he occupies with or without permission or contrary to orders is liable to assessment to land revenue, and the acceptance of land revenue does not affect his liability to be ejected if he has occupied or remained in occupation without express permission. Under Rule 10 a Revenue Officer has the same powers of ejectment as are possessed by a Civil Court in the execution of a decree and under Rule 191 he may apportion costs as he thinks fit. This power may fitly be used to eject persons whose houses have been burned down when it is considered advisable on sanitary or other grounds to forbid the re-erection of houses on the land occupied without permission or to lay it out afresh. Where houses erected on land occupied without permission are in such a state that their immediate demolition is advisable from a sanitary point of view some small compensation should ordinarily be paid as a matter of grace.

CHAPTER II.

GRANT OF CERTIFICATES TO LEGAL PRACTITIONERS.

15. Certificates to legal practitioners to practise before all Revenue Officers in Upper Burma shall be of two classes, namely,—

- (i) certificates authorizing practise before all Revenue Officers,
- (ii) certificates authorizing practise before Revenue Officers subordinate to the Financial Commissioner.

16. Certificates authorizing practise before all Revenue Officers may be granted to—

- (i) persons entitled to practise as—

- (a) a Barrister in England or Ireland or an Advocate in the Supreme Court in Scotland;

- (b) a Solicitor of His Majesty's High Court of Judicature in England, or an Attorney or Solicitor of any of the Superior Courts of Law or Equity in Ireland, or a writer to the Signet, or Solicitor of the Supreme Court in Scotland, or an Attorney of any High Court in India ;
 - (c) a Pleader in the High Courts of Calcutta, Madras, Bombay, or Allahabad, or in the Chief Courts of the Punjab and Lower Burma or an Advocate in the Chief Court of Lower Burma or in the Court of the Judicial Commissioner, Upper Burma.
- (ii) any person who has passed such examination in law as is prescribed for Advocates of the first grade in Upper Burma, or for Pleaders of the first grade in Lower Burma.
17. Certificates authorizing practise before such Revenue Officers subordinate to the Financial Commissioner as may be named therein may be granted to—
- (a) any of the persons to whom a license of the first class may be granted ;
 - (b) any person licensed by the Chief Court of Lower Burma as a Pleader of the second or third grade.
 - (c) any person licensed as an Advocate of the second or third grade by the Judicial Commissioner of Upper Burma.
18. Certificates shall be current for one year only from the date of issue. Certificates of the first class shall be chargeable with stamp-duty of Rs. 20; certificates of the second class shall be chargeable with stamp-duty of Rs. 10.
19. Applications for certificates shall be made to the Financial Commissioner in writing and every application must be accompanied by an **impressed non-judicial stamp** of the value of Rs. 20 or Rs. 10 as the case may be. Applications shall always be accompanied by proof that the applicant is eligible to receive a certificate of the class for which he applies. If the application is submitted through the Collector of the district, it will suffice if the Deputy Commissioner forwards it with a statement that the applicant is properly qualified under these directions. The application should be forwarded direct and not through the Commissioner of the Division,

20. A copy of a certificate shall be chargeable with a stamp-duty of one rupee.

21. A roll of all legal practitioners to whom certificates are granted shall be kept by the Secretary to the Financial Commissioner.

22. A legal practitioner shall, if so required, produce before a Revenue Officer his certificate authorizing him to practise before him. No Revenue Officer shall be bound to permit a legal practitioner to practise before him unless such certificate is produced before him.

23. Reports regarding any improper conduct on the part of a legal practitioner shall be submitted to the Financial Commissioner through the superior officer or officers of the Revenue Officer making the report. When a certificate is cancelled by the Financial Commissioner, notice thereof will be given to the Commissioner or Commissioners of Divisions in which the legal practitioner was entitled to practise under the certificate. Commissioners of Divisions will transmit the notice to all Revenue Officers subordinate to them before whom the legal practitioner was entitled to practise.

CHAPTER III. THATHAMEDA.

Determination of household rates (Rule 13).

24. Under Rule 13 the total *thathameda* demand in any district is determined by multiplying the revenue-paying households "by such rates as the Local Government may from time to time prescribe." The annual sanction of the Local Government is not required in cases where the rate at which it is proposed to assess any local area is the "normal rate" for such local area. By "normal rate" is meant.—

- (a) *in settled areas*, the average rate for the area sanctioned for the period of the settlement or other period by the Local Government in its Resolution on the Settlement Report or in subsequent orders in modification thereof.
- (b) *in unsettled areas*, Rs. 10 per household, except where a different rate has been expressly sanctioned for a period in excess of a year, in which case the rate so sanctioned shall until the expiry of the term for which

it is sanctioned be deemed to be the "normal rate" for the local area for which it has been sanctioned, *e.g.*, Rs. 2-8-0 per Kachin household in Myitkyina and Bhamo.

25. Variations from the "normal rate" (other than variations which a Collector in a settled district may be authorized to make when distributing the total demand at the normal rate among the various villages in the settled area) require the sanction of the Financial Commissioner to whom the Local Government has now delegated a portion of its power under Rule 13; where these variations consist of reductions of rates for a period in excess of one year, the orders of the Local Government will be taken by the Financial Commissioner. Proposals for varying from the normal rate should be submitted by the Collector to the Commissioner in the form of a letter, accompanied by proceedings (if any), giving reasons for the variations proposed and specifying their local extent, *i.e.*, the number of villages as defined in section 3, sub-section (3), for which each variation is proposed, at least one month before the assessment-rolls are due in the Collector's office.

**Preparation and checking of the assessment roll
(Rules 14-5).**

26. The following procedure shall be observed by the *thugyi* in preparing the assessment roll prescribed by Rule 14—

- (i) The *thugyi* shall first copy into columns 2 to 5 of the roll all the entries made in the same columns of the roll of the preceding year, including supplementary rolls, omitting only the households which were shown in the remarks column of that roll to have left the village and were on that account not given a serial number in column 1 of the roll. If any of the households which were given a serial number in column 1 of last year's roll have left the village permanently, the *thugyi* shall note in the remarks column the fact of their departure and the village or town to which they have removed, so far as these particulars are known.
- (ii) After the households of the preceding year he shall enter the newly married couples or other households which are liable to be entered as separate households for the first time and then the households which have newly come to the village, noting in the remarks column the village or town from which they have come.

- (iii). He shall then enter in column 1 the serial number of all the households in the village, whether or not liable to assessment and in column 6 shall note against the households which are entitled under Rule 12 to exemption the reason for exemption. For example, the entry should show whether the exemption was on account of "poverty" or because the head of the household was a Government servant, village crier, etc. In column 7 (a) shall be entered the serial number of the persons liable to assessment.
- (iv). The roll shall be prepared in duplicate and both copies shall be submitted to the Assistant Collector on or before the date fixed by him in this behalf.

27. The Assistant Collector in charge of the Township shall check every exemption entry in column 6 of the roll, confirm those which are right, and strike out those which are wrong, and shall initial both the confirmed and the rejected entries, at the same time correcting the serial number of assessees in column 7 (a) of the roll. He shall then submit both copies of the roll to the Assistant Collector in charge of the subdivision (if any), who after further checking, and if necessary amending them shall submit them to the Collector. The roll thus checked shall, subject to such further check as he may prescribe, be accepted by the Collector as the basis for determining the total demand under Rule 13.

Officers who check rolls should acquaint households which are exempted from payment of the fact that they are exempted in order that the *thugyi* may not take advantage of their ignorance to collect the tax from them.

28. The term **household** has not been defined, but in practice there should be little difficulty in deciding whether or not a particular set of persons constitutes a separate household. The broad principle is that persons who have separate incomes should be assessed separately and those who have a common source of income should be assessed together. The head of a family, with his or her relations, domestics, and dependents, should be assessed as one household if the whole family has one common income, whilst a single individual who lives alone or with others, if in possession of a separate income, should be assessed as a separate household. The relations, domestics, and dependents of single persons, if supported by them, should be considered as forming part of their household. Only adults should be assessed.

29. The checking of assessment rolls may be carried on at any period of the year when the Assistant Collector is on tour and should not be confined to the short period available between the

submission of the rolls by the *thugyi*s to the Assistant Collector in charge of the township and the date on which they are due in the Collector's office.

30. While it is important to see that every household liable to assessment pays *thathameda* it is equally important to make sure that the *thathameda* collected reaches the treasury. For this purpose a checking officer should satisfy himself, not only that every household liable to pay the tax has actually paid it and possesses a receipt for the amount paid but that it has been entered as a separate assessable unit in the original or in a supplementary assessment roll.

31. Immediately on receipt of each assessment roll in the district office, the *Akunwun* shall cause the necessary entries to be made in the Register of Thathameda Assessment Rolls and in the Revenue Account Registers, and shall draw up an abstract at the end of the duplicate copy of the roll, showing the number of households assessed, and the demand for the village during both the current and the preceding year. The Collector shall sign both the original and duplicate copy of the roll, and shall cause them to be returned with the required number of *thathameda* receipt forms (see Direction 43) through the Assistant Collectors to the *thugyi* for further action under Rule 15.

32. When the *thamadis* have completed the distribution of the total demand for the village over the households liable to assessment, the *thugyi* shall enter the amount assessed on each person in column 7 (b) of each copy of the roll and shall return the duplicate copy through the usual channels to the Collector.

33. Households which were not included in the assessment roll as received back from the Collector, unless they can prove that they have been entered in the rolls of another village and produce a receipt for the amount there assessed on them, shall be entered in a supplementary roll, the serial numbers in which shall run on in continuation of the serial numbers in the original roll. Supplementary rolls in duplicate shall be submitted through the usual channels to the Collector who shall cause the necessary entries to be made in the Register of Thathameda Assessment Rolls and in the Revenue Account Registers, and shall return the original copy of the supplementary roll through the Assistant Collectors in charge of the township and subdivision to the *thugyi* for collection of the amount assessed.

Assessment of immigrants from Lower Burma.

34. Immigrants from Lower Burma to Upper Burma are not exempt from the payment of *thathameda*. The only immigrants

to Upper Burma who can be exempted from *thathameda* under the rules are immigrants from countries outside of Burma, and immigrants from Lower Burma to Upper Burma cannot claim any exemption from *thathameda*, nor can immigrants from Upper Burma to Lower Burma claim exemption from capitation-tax.

35. When any person who has been assessed to capitation-tax in Lower Burma removes to Upper Burma with the intention of residing there, the Deputy Commissioner of the district in Lower Burma in which that person was assessed to capitation-tax shall inform the Collector of the district in Upper Burma to which that person has removed that a payment on account of capitation-tax is due from him. If that person has been assessed to *thathameda* in Upper Burma, the Collector of the district in Upper Burma will certify that he has been assessed to *thathameda* in Upper Burma, and on the receipt of such certificate the Deputy Commissioner of the district in Lower Burma in which the person was assessed shall strike off the amount due in Lower Burma on account of capitation-tax, merely noting that the assessee has since been assessed to *thathameda* in Upper Burma. The certificate of the Collector of Upper Burma shall be sufficient authority for the remission of the tax in Lower Burma and no further sanction to its remission shall be necessary.

36. When a person who has paid capitation-tax in a Lower Burma district removes to an Upper Burma district and is assessed there to *thathameda*, the amount of capitation-tax paid by such person in Lower Burma shall be held to be part payment of the *thathameda* due by him, and he shall be required to pay only the balance. A receipt, signed by the Deputy Commissioner of the Lower Burma district, shall be sufficient evidence of the amount of capitation-tax paid and shall be sufficient authority for the remission of *thathameda* to the extent set out in the receipt. No further sanction to such remission is required.

Assessment of *thathameda* in Cantonments.

37. In all Cantonments (except Mandalay) in Upper Burma *thathameda* shall be levied only from domestic servants of Government officers (Civil and Military) resident within Cantonment limits. No other persons shall, for the present, be assessed to the tax. Subject to the exemptions allowed by Rule 12, such domestic servants shall be assessed at a fixed uniform rate of Rs. 2 each. The assessment and collection of the tax will be made by a person to be appointed by the Collector of the district in consultation with the Cantonment authorities, and such person will be entitled to receive a commission of 10 per cent. on his collections.

Assessment of domestic servants.

38. All domestic servants, both of officials and non-officials in areas outside Cantonments, Upper Burma, who are liable to pay the tax shall be assessed to *thathameda* at the fixed rate of Rs. 2 per family.

Assessment of Non-Burman Communities.

39. In villages and towns where Chinese, Indian, or other non-Burman households form a considerable proportion of the population the following procedure in assessing *thathameda* may be adopted with the sanction of the Commissioner of the Division. The Collector shall determine the proportion of the total demand assessed on the village or town which may equitably be contributed by each community and the amount so determined shall be distributed over the households of each community by the *thamadis* chosen by that community.

Assessment of Railway Employees.

40. The following procedure has been prescribed for the assessment and collection of *thathameda* from railway employes:—

Assessment.

(i) All railway employes whose income is less than Rs. 1,000 a year shall be assessed to *thathameda* in Upper Burma at the following annual rates:—

(a) Employes drawing salaries of Rs. 20 a month and upwards—Rs. 10.

(b) Employes drawing salaries of less than Rs. 10 a month—Rs. 2.

(ii) The names of all railway employes shall be excluded from the district assessment-rolls. In cases where there is any doubt as to whether a particular individual is a railway employe or not proper enquiry should be made by the local officers.

Collection.

(iii) Arrangements have been made with the Burma Railways Company, Limited, for the collection and payment of the *thathameda* due from their employes into the Bank of Bengal, Rangoon, to the credit of Government, in communication with the Accountant-General. District Revenue Officers will therefore have no concern with these payments. The collection of the tax will be made by deductions from salary bills or pay-sheets during the months of November, December and January, to be credited to Government in one lump-sum before the 31st March following.

(iv) When the amount of *thathameda* due on account of any year has been completely recovered, the Railway Company shall grant to each employé a certificate to that effect. Employés unable to produce this certificate when required to do so by local revenue officials shall be liable to have their names included in the supplementary assessment-rolls of any district in which they happen to be stationed.

Assessment of the employees of the Irrawaddy Flotilla Company, Limited.

41. The following procedure has been prescribed for the assessment and collection of *thathameda* from employés of the Irrawaddy Flotilla Company, Limited, other than agents ashore and employés who do not live afloat :—

Assessment.

- (i) All such employés, if not assessed to income-tax or to land-rate in lieu of capitation-tax, shall be assessed to capitation-tax or *thathameda* for each agricultural year (1st July to 30th June), according as they are stationed in Lower or Upper Burma, at the following annual rates :—
Single men—Rs. 2-8-0 ; *married men* Rs. 5.
- (ii) The names of all such employés shall be excluded from the district assessment-rolls. In cases where there is any doubt as to whether a particular individual is an employé of the Irrawaddy Flotilla Company, Limited, or not, proper enquiry should be made by the local officers.

Collection.

- (iii) Arrangements have been made with the Irrawaddy Flotilla Company, Limited, for the collection and payment of both taxes into the Bank of Bengal, Rangoon, to the credit of Government, the necessary chalangs being obtained from the Deputy Commissioner, Hanthawaddy. District Revenue Officers will therefore have no concern with these payments. The collection of each tax will be made by deductions from the salary bills or pay-sheets during the months of August, September and October. The total amount collected, less seven and a-half per cent. commission on collection, will be credited on or before the 30th November, half to "capitation-tax" and half to "*thathameda*." It will therefore be unnecessary for the Manager, Irrawaddy Flotilla Company, to distinguish between the two taxes in his accounts.

- (iv) When the amount of capitation-tax or *thathameda* due on account of any year has been completely recovered from an employé, the Irrawaddy Flotilla Company, Limited, will grant to him a certificate in the appended form, copies of which will be supplied to the Manager of the Company by the Deputy Commissioner, Hanthawaddy. Employés unable to produce this certificate when required to do so by local revenue officials will be liable to have their names included in the supplementary assessment-rolls of any district in which they happen to be stationed.
- (v) An account of the number of certificates for Rs. 2-8-0 and Rs. 5 respectively in stock and issued to the Manager of the Irrawaddy Flotilla Company, Limited, will be kept by the Deputy Commissioner, Hanthawaddy, in the same manner as the account of blank capitation-tax receipts. The Manager will return to the Deputy Commissioner all the unused certificate forms on or before the 30th November in each year, together with the counterfoils of certificates which have been issued. The unused certificates will be taken again into stock, and the counterfoils, after such check as appears necessary, will be destroyed.

[COUNTERFOIL.]

19 -19 ;

**IRRAWADDY FLOTILLA
COMPANY, LIMITED.**

 Certificate of payment of *capitation-tax*
thathameda.

Name of employé—

Vessel on which employed—

Date _____

Place _____

for Manager,

Irrawaddy Flotilla Company, Limited.

19 -19 .

**IRRAWADDY FLOTILLA COMPANY,
LIMITED.**

 (Rs. 5.
Rs. 2-8-0.) Certificate of payment of *capitation-tax*
thathameda (Rs. 5.
Rs. 2-8)

 CERTIFIED that rupees five
rupees two and annas eight only have been

recovered in full from _____ (name of employé)

employed on _____ (name of steamer, launch or

flat), on account of *capitation-tax*
thathameda due by him for the year 19 -19

Date _____

Place _____

for Manager,

Irrawaddy Flotilla Company, Limited.

Instructions regarding the Custody of Thathameda Receipt Forms (Rule 18).

42. In the month of June in each year each Collector will inform the Superintendent, Government Printing, of the number of *thathameda* receipt forms* which he will require during the ensuing year of assessment beginning on 1st July. The Superintendent, Government Printing, will, on or before the 1st November, despatch the supply asked for in books, each containing one hundred numbered forms. The name of the district and the year of assessment according to both the English and Burmese calendars should be printed in red ink on both foils of the prescribed form.

43. On receipt of the year's supply the *Akunwun* will cause the number of forms to be verified, and will place them in serial order in a secure almirah. The total number of receipt forms should be entered in the stock-book of forms, a separate volume being set apart for this purpose. The *Akunwun* himself will retain the key of the almirah in which the forms are kept, and no forms will be issued except under his immediate supervision. When issuing forms, the *Akunwun* will cause to be noted in the stock-book the total number issued to each *thugvi*. He will know from the assessment rolls how many assessees there are, and he will in the first place issue the exact number required and no more. He will make the following note in the stock-book against the entry of each issue :—

“ *Thugyi* O. R.” (Original roll).

44. When forms are spoiled in the writing, they should be brought or, in the case of *thugyi*s in townships other than the township at the district headquarters, returned to the Assistant Collector in charge of the Township to be sent back to the *Akunwun*, who will forthwith destroy them and will issue a fresh supply in their place. He will enter the number so issued in the stock-book, and will make the following note against the entry :—

“ O. R. replaced.”

45. The serial numbers of the forms issued to each *thugyi* should be noted [thus: “ Issued receipt Forms No. to No. on (date)”] at the foot of the original and the duplicate of each assessment-roll when they are sent out from the District Revenue office, and all subsequent issues to re-place spoiled forms should similarly be noted in the duplicate of the roll after it is returned to the District Office for record. The numbers of such supplementary forms should be entered on the copy of the roll left in the hands of

the *thugyi* by the Assistant Collector in charge of the Township or other officer by whom they are actually delivered to the *thugyi*.

46. At the close of the year the *Akunwun* will sum up the total value of receipt forms issued during the year by multiplying the total number shown in the stock-book as issued to each *thugyi* by the rate of assessment in each village. The resultant product should equal the sum total of *thathameda* collected, remitted and outstanding as shown in the June monthly statement of revenue collections plus the value of all forms destroyed in the preparation of receipts. Any discrepancy between these totals should be brought at once to the notice of the Collector. The balance of forms remaining in stock should then be verified and destroyed in the presence of the *Akunwun*. The forms printed for use during one year should never be used for the following year. It will be the duty of Collectors, when framing an estimate of their requirements, to avoid indenting for an excessively large stock, while at the same time making sufficient allowance for an increase in the number of assessees.

47. *Thugyis* shall preserve the counterfoils of *thathameda* receipt forms for two years after the close of the year for which they were issued.

CHAPTER IV.

LAND TENURES.

Status under the Burmese regime of land abandoned and subsequently re-occupied.

48. On a reference from the Meiktila Division (No. 24 of 1892) the Financial Commissioner decided that the following six principles for dealing with land under the Burmese regime were established by constant and recognized usage, modifying and amplifying the theoretical declarations of the *Dammathat* :—

First.—The King did not assert his ownership of waste uncleared land against his subjects. He caused to be cleared and cultivated such waste uncleared lands as he chose, and he or his representatives occupied these as Royal lands. But the clearing and tillage of virgin land were left free subject to the customs which had grown up in the village communities and to the law contained in the *Dammathat*.

Second.—Any person who cleared and tilled virgin land at once became entitled to hold that land against any other person, whether the King himself or any other ; and the land so cleared and tilled became what was called the "*dama-u-kyā*" holding of the

cultivator. The *Manukye Dammathat* appears to lay down that permanent right to hold such land against all the world only accrues after ten years' continuous occupation; but invariable usage recognized by the Kings shows that from the time when the first occupant cleared and commenced tillage he never was, and could not be, deprived of the land so long as he continued in occupation.

Third.—If the original clearer and tiller had occupied the land for ten years, he might abandon it and then re-occupy it if the period of abandonment had been less than ten years. It mattered not whether, during the period of abandonment, an outsider or an officer of the King had occupied the land. If within the ten years (which appears to have been considered the time which cultivated land takes to relapse into jungle) the original reclamer returned and desired to re-occupy the land, he had the right, and indisputably exercised the right, to resume possession.

Fourth.—If after an occupation of ten years the original clearer and tiller abandoned the land for a period of ten years or more, no matter how long, he had the right to resume possession if, during the period of abandonment, no other person had occupied the land, and if the King or any of the King's officers had not taken possession of it.

Fifth.—If after abandonment by the original clearer and tiller for a period of ten years or more a stranger occupied the land or the King or one of his officers by a specific act or declaration took possession of it, the original reclamer could not re-assert his right to the land which, if in the hands of a stranger, had become the "*dama-u-kyā*" of the latter or, if resumed by act or declaration of the King or one of his officers, had become Royal land.

Sixth.—Land which had been abandoned after clearing and tillage did not, from the mere fact of its abandonment, become Royal land. A specific act or declaration of resumption by the King or one of his officers was necessary, and in the absence of such a specific act or declaration, the land did not become Royal land.

"Chaungdein" Lands.

49. (i) *Chaungdein* lands are permanent alluvial formations, which are or may be submerged when the river is in flood, but which do not shift in position or form with the current of the river. They are therefore not State land as defined in clause (c) of section 23, although they may be technically State land under clause (a).

(ii) Alluvial formations, which annually or periodically shift in position or form with the current of the river, come under clause (c) of section 23, and are State land.

(iii) *Chaungdein* lands as defined above, on all rivers except the Irrawaddy and the Chindwin, which were known as "Royal lands" at the time of the passing of the Regulation, shall, if they have been regularly occupied and cultivated as *bobabaing* for a period of twelve years by the same person or family or by descendants or representatives or assigns of the original cultivating person or family, and if they are still in the occupation of such person or family or their descendants, representatives, or assigns, be held to be the *bobabaing* lands of the person or family in occupation.

(iv) *Chaungdein* lands on the Irrawaddy or Chindwin river, which were known as "Royal lands" at the time of the passing of the Regulation, are State lands under clause (a) of section 23.

"Wuttagan" Lands.

50. *Wuttagan* lands, or lands which have been devoted to the upkeep of a pagoda, monastery, or other religious institution, are of three classes:—

(a) Land which was non-State before it was dedicated and which has been dedicated by the owner either prior or subsequent to the annexation.

(b) Land which was State before it was dedicated and which has been dedicated by the British Government.

(c) Land which was State before it was dedicated and which was dedicated by the Burmese Government, but has not been re-dedicated by the British Government.

The following instructions are issued for guidance in dealing with them. Briefly put, non-State lands dedicated as *wuttagan* by their owners are not to be dealt with as *wuttagan*, but are on exactly the same footing as other non-State lands, and State lands dedicated as *wuttagan* are to be recorded as such only when the allotment has been made or confirmed by the British Government.

(i) As regards land of the first class, in which a dedication was made by a private individual of his *bobabaing* land, the land will continue to be non-State and, although styled *wuttagan* should not be classed as such, but should be recorded and dealt with simply as non-State land. Such land will be liable to assessment in the same way as other private lands.

(ii) Lands of the second class are those which have been specially allotted under the orders of Government during and subsequent to the year 1895, towards the up-keep of certain religious institutions in Upper Burma, and which, prior to such allotment, were either State land which had been previously dedicated by the Burmese Government or ordinary State land. Such lands will be exempt from assessment to revenue (other than water-rate,

XIII (2), Page 121.—(i) In Direction 50(A) *renumber* incidents (f) and (g) under *Magwe* as incidents (g) and (h) respectively.

(ii) *Insert* the following as incident (f):—

(f) As long as a person resides in the circle he cannot be deprived of the land in his possession; but if he has more land than he can cultivate, the *thugyi* may, subject to the approval of the Deputy Commissioner or Subdivisional Officer, take away a portion of it to give to one who has not enough.

(Financial Commissioner's Notification No. 46, dated the 17th March 1909.)

when irrigated) and will be dealt with in the same way as other State lands which have been granted revenue free for religious or public purposes. They will be recorded as *wuttagan*.

Form XII, page 170. State lands and should be entered in the Register of Lands alienated for Religious, Public and other purposes.

(iii) Lastly, there are the State lands which were dedicated as *wuttagan* by the Burmese Sovereigns, but have not been subsequently re-dedicated by the British Government. In the enquiries which were held prior to 1895 it was understood that full particulars had been elicited regarding all *wuttagan* lands dedicated by the Burmese Government, and the orders which were issued on the subject defined the status of all such lands. Consequently, if the above enquiries were complete, there can be no land of the third class which can now be acknowledged as *wuttagan* land by Government. If, therefore, a Collector discovers the existence of State land which was overlooked in the enquiries made before 1895, and which in his opinion should be declared to be *wuttagan* land, he should abstain from issuing any declaration regarding its status as *wuttagan* or otherwise, but should refer the matter for the orders of Government.

CHAPTER V.

DISPOSAL OF STATE LAND OUTSIDE TOWNS.

Policy regarding issue of leases for cultivation.

51. Except in particular areas and for special reasons no attempt should be made to compel persons who have occupied land for purposes of cultivation to take out leases of the land occupied. Leases should in no case be given in *ya* and other tracts in the dry zone in which there is no competition for land and in which no period of exemption from land revenue would be admissible under Rules 47 and 48.

Disposal of State Land in or near tanks used for irrigation purposes under the control of the Public Works Department.

52. The following instructions apply only to tanks which are controlled and wholly or partially maintained by the Public Works Department, or which are declared by the Superintending Engineer, Irrigation Circle, to be likely to be controlled or maintained in future. The instructions do not apply to tanks maintained by Civil Officers or by private individuals.

53. The area of the bed of a tank shall be the area within the contour level of highest flood when the waste weir is discharging its utmost, and such area shall be permanently demarcated by pillars by the Irrigation Department.

54. In the case of tanks to which the Superintending Engineer, Irrigation Circle, declares these instructions to apply, no permission to cultivate within the area so demarcated shall be given except in years of drought, when permission may be given with the concurrence of the Irrigation Officer.

55. In other cases permission may be given to cultivate within the area of the bed of the tank, but such permission shall be given from year to year only and on the distinct understanding that it is subject to all risks of flood or drought arising from measures considered to be necessary or expedient by the Irrigation Department. No manure shall be used in the cultivation within such area, and such crops only shall be grown as the Irrigation Officers think desirable.

56. A strip of land on each side of every tank embankment shall be permanently demarcated with pillars by the Irrigation Department. The width of the strip on the outer side of the embankment shall not ordinarily exceed 50 feet in the case of important works and 25 feet for minor tanks from the toe of the embankment, and the width of the inner strip shall not ordinarily exceed 100 feet for important tanks from the toe of the embankment.

57. Within this demarcated area no lease or other permit shall be given for the occupation of State land either for purposes of cultivation or otherwise, and any person occupying such land shall be ejected in accordance with section 25 (d). It will be for the Irrigation Department to determine whether it is necessary to acquire non-State land falling within such area.

Disposal of Sand-banks and Strand-banks.

58. The following instructions shall be followed, as far as possible, in the disposal of sand-banks and strand-banks :—

(i) The Collector shall from time to time fix the limits within which sand-banks or strand-banks shall be annually leased. In determining these limits the Collector should include only such banks as are of some general value owing to their favourable situation, such as proximity to a town or village or to their suitability for boat-repairing or other industry. Beyond such limits use and occupation of sand or strand-banks should be free and unrestricted.

(ii) Within the limits fixed by the Collector the land shall be divided into convenient lots, and the lots shall be disposed of

annually by lease by the Collector or other officer authorized by him. Free spaces should, where necessary, be left vacant between adjoining lots so as not to interfere with traffic.

(iii) The Collector shall determine, subject to the approval of the Commissioner, the method of arriving at the fair rent of the lots by auction or otherwise and the maximum fees which may be levied by the lessee for the use of the ground for repairing, cleaning, or caulking boats, for storing merchandize, or for other purposes, which should be clearly stated.

(iv) No fee or charge of any kind shall be levied by a lessee on boats anchored in the river alongside or near to his lot on account of such anchorage.

(v) No fee or other charge shall be levied by a lessee as a toll on persons or on goods in transit from or to boats, provided that the goods are not allowed to remain on the lot for a longer period than is reasonably required for their conveyance.

(vi) Subject to the above conditions the Collector may with the sanction of the Commissioner, make rules for determining among other matters—

(a) The purposes for which lots may be used.

(b) The conditions under which such purposes may be carried out.

(c) The provision to be made by the lessee for storage of goods or other purposes.

If the sand-bank or strand-bank is situated within the limits of a Municipality, the rules should be framed in consultation with, and should be approved by, the Municipal Committee.

(vii) It should be a condition of the lease that, if a lessee commits a breach of any of the rules under which the leases are given, the lease may be cancelled and the lot re-sold, the amount already paid by the lessee being forfeited to Government.

(viii) The rents realized from the leases of sand-banks and strand-banks shall be credited to Provincial Funds as Miscellaneous Land Revenue.

Disposal of Island Lands.

A.—Settlement of Jurisdiction over Islands.

59. The following instructions are prescribed for the settlement of questions which may arise as to the jurisdiction over islands situated in a river forming the boundary between two districts. They are not to have retrospective effect, and, if the question of jurisdiction over certain islands has already been settled, that settlement will not be affected.

(i) The boundary between districts shall be the main or deep-water channel of the river as it flows in the month of February.

(ii) In cases of avulsion or change in the river-bed, in which villages or islands are transferred from one side of the deep stream to another and the lands are capable of identification, the jurisdiction shall remain with the district to which the villages or islands originally belonged, *e.g.*,—

- (a) An island in the river between districts **A** and **B** belonging to district **A** is gradually eroded, and the land becomes an accession by alluvion to district **B**. The land will be an accretion to district **B**.
- (b) The deep stream of the river runs one year between an island which forms part of district **A** and district **B**. The next year the deep stream runs between the island and district **A**. The lands being capable of identification, the jurisdiction will remain with district **A**, and will not be transferred to district **B**.

60. If in any case the Collectors of two districts divided by a river consider that for special reasons these rules should not be applied, a reference should be made to the Financial Commissioner through the Commissioner or, if the districts are in two different divisions, through both Commissioners.

61. Any alteration in the area and population of a district affected by the foregoing instructions shall be reported through the Financial Commissioner to the Local Government, the proceedings in the case being forwarded with a draft notification under section 5 of the Burma Laws Act, 1898.

B.—Settlement of disputes regarding Island lands.

62. The following instructions shall apply to culturable land on all islands and on new accretions to the mainland on the banks of rivers (hereinafter called island lands), concerning the right to cultivate which there is, or hereafter may be, any dispute. They are not intended to be applied in any case where existing customs are working smoothly and there is no dispute.

63. The persons ordinarily entitled to cultivate island lands are the inhabitants of the village within whose boundaries such lands are situated.

Explanation.—To determine the village within which island lands fall, the instructions laid down in Direction 59 shall be followed in cases of dispute as to which side of a river the lands belong, while the river boundary between two villages on the same bank

may ordinarily be taken to be the line drawn at right angles to the bank at the intersection of their common land boundary with the river.

64. The persons described in Direction 63 are entitled to cultivate island lands only so long as they are actually resident within the village to which the land belongs and while they are both able and willing to cultivate it.

65. Island lands may not be transferred by sale, mortgage or inheritance, nor may they be leased. Any person transferring or leasing island lands shall be liable to be deprived, for such period as the Collector may determine, of his right to cultivate such land, while the transferee will be liable to ejection in accordance with Rule 30.

66. Island lands consist of (1) *Myenu* or (2) *Myeyin* or of both. The area classed as *Myenu* is liable to yearly change and shall ordinarily be liable to yearly distribution among all the cultivators of the village (due regard being had to the area of *Myeyin* in their possession), until such time as it becomes *Myeyin*, but the cultivators in any year shall, so far as possible, and if still eligible, have the same holdings next succeeding year. The land classed as *Myeyin* shall ordinarily not be re-distributed. Revenue Surveyors shall, in the annual supplementary survey map, distinguish the two classes of land with paint of different colours.

67. The *thugyi* assisted by two or three *thamadis* to be chosen by the villagers, shall ordinarily be the agent employed in distributing island lands. Such distribution shall be made as soon as possible after the land appears above the surface of the water and shall be final, subject to appeal to the Assistant Collector in charge of the township. A villager, on securing his allotment, shall be at once entitled to cultivate it as against all others. If, however, the distribution of the *thugyi* and *thamadis* be adjudged unfair by the Assistant Collector in charge of the township, the allotment must be surrendered either in whole or in part as may be ordered, on payment of such compensation on account of seed sown as may be determined by the Assistant Collector in charge of the township.

Allotments of "thugyisa" land.

I.—General.

68. *Thugyisa* land means State land in Upper Burma held revenue free by a *thugyi* in virtue of his office.

69. All proposals to reduce or to assess to revenue the area held as *thugyisa* by any *thugyi*, or to make fresh allotments of *thugyisa* and, must be submitted to the Financial Commissioner for sanction. The proceedings in each case should contain—

- (a) a map of the area affected ;
- (b) a statement showing the amount of the *thugyi's* emoluments from other sources,
- (c) in the case of proposals for a reduction in the extent of existing *thugyisa* land, a statement whether the area proposed for resumption has hitherto been worked by the *thugyi* himself or by tenants, and in the latter case, a recommendation as to whether the *thugyi* himself or the tenants who are the actual cultivators should be registered as State tenants.

II.—Existing *thugyisa* land.

70. A claim by a *thugyi* to hold land as *thugyisa* is not a claim under section 24 (2). The question whether a *thugyi* should or should not be allowed to retain *thugyisa* land now in his possession is therefore one of policy and not one of right.

71. The area of land retained as *thugyisa* by any *thugyi* should ordinarily not exceed 25 acres. Any area in excess of this amount now held without the sanction of the Local Government should in the absence of special reasons (e.g., poverty of soil) for allowing a larger area, be assessed to revenue at the ordinary State land rates. The *thugyi* will in respect of the excess area be in the position of an ordinary State land occupier, entitled to hold the land subject to the usual conditions, whether he continues to be *thugyi* or not.

72. Alienations of *thugyisa* land by mortgage or sale cannot be recognized. In such cases the Collector may either eject the person in possession or assess him to revenue as State land tenant.

73. When a village jurisdiction is split up into two or more independent *thugyi's* charges, one of which is retained by the *thugyi* of the original charge, or by his descendant, only so much of the *thugyisa* land (if any) belonging to the original charge as lies within his new jurisdiction shall, subject to the maximum of 25 acres, be retained by the *thugyi* as *thugyisa* land. The remaining land, if any, should be assessed to revenue.

74. Direction 73 does not apply to cases where subordinate headmen are appointed to the outlying hamlets of any village jurisdiction which still remains under the charge of the original *thugyi* as *myothugyi*.

III.—Proposed *thugyisa* land.

75. Where there is no *thugyisa* land and the money emoluments of a *thugyi* are not by themselves sufficient remuneration, proposals should where possible be submitted for allotting to a *thugyi* as *thugyisa* land an area of State land not exceeding 25 acres lying within his jurisdiction.

N. B.—What is sufficient remuneration is in each case a question of fact. A *thugyi* with various duties to perform requires more remuneration than a *thugyi* with few duties. Ordinarily, however, a *thugyi* need not have remuneration under all heads exceeding Rs. 180 per annum.

76. When the State land which is proposed for allotment as *thugyisa* is already in the possession of the *thugyi* as State land occupier subject to the payment of revenue, the *thugyi* should be clearly informed that, on the conversion of the land into *thugyisa* his personal rights in it will disappear and it will remain in his possession only so long as he continues to be *thugyi*. The proceedings should invariably show that this has been done and that the *thugyi* has elected to hold the land as *thugyisa*.

77. Where there is no suitable State land available in the jurisdiction of the *thugyi* to whom it is proposed to allot *thugyisa*, i.e., State land which is not already in the possession of a State land tenant—the proposal to allot *thugyisa* land must remain in abeyance until land has become available. State land occupiers should not be ejected for the purpose of providing *thugyisa* land.

78. It is not necessary that the maximum area (25 acres) should be allotted in every case. The area allotted may vary according to the productiveness of the land and the amount by which the money emoluments of the *thugyi* fall short of the remuneration considered sufficient in his case.

79. Temporary allotments of *thugyisa* land, allotments personal to a particular *thugyi*, and exemption from or reduction of revenue on land other than State in the possession of a *thugyi* will not ordinarily be sanctioned and should not be proposed.

Grants for religious edifices and public purposes.

80. Grants of land for consecration as *theins* may be made by the Collector within the limit of his powers under Rule 52. Applications for such grants should therefore be disposed of under that rule unless the applicant desires that the grant may be made by the Lieutenant-Governor. Applications for *thein* grants may be made

by laymen only and must be stamped with an eight-anna court-fee stamp. In submitting applications for the orders of the Local Government the Collector shall forward a spare copy of the map of the land to be attached to the deed of grant signed by the Lieutenant-Governor and shall note the following particulars :—

- (a) The name and residence of the applicant ;
- (b) the area of the land applied for and its value calculated according to Rule 52 ; in calculating the value the capitalised value of an acre should first be ascertained and the capitalised value of the area applied for deduced therefrom ;
- (c) the village and *kwin* name and number in which the lands is situated ;
- (d) whether notices calling for objections to the grant of the land have been duly issued ; and
- (e) if the land is situated within the compound of a monastery, the name of the monastery and the title of the presiding *pongyi* and whether he consents to the grant.

81. It is not intended that a Collector in exercise of his power to grant land revenue-free for a religious edifice under Rule 52 or for a public purpose under Rule 54A should by two separate deeds of grant, whether issued simultaneously or at different times, dispose of an area which he could not grant by a single deed. When calculating the value of land for which application is made in order to determine whether the area is within his power of sanction, the Collector shall include the value of any land in the same *kwin* or village previously granted revenue-free by himself or by a predecessor or by some higher authority to the same person or as an appanage of the same building.

82. The power of the Collector to make grants of waste land revenue-free for a public purpose, *e.g.*, as a site for a *zayat*, tank, well or burial ground, under Rule 54A is subject to the sanction of the Financial Commissioner. It is not however necessary that the previous sanction of the Financial Commissioner should be obtained to the issue of such grants nor need the proceedings be subsequently submitted for his confirmation. Applications for such grants may be disposed of by the Collector within the limits of his powers in the same way as applications for grants of land for the erection of religious edifices. It should be noted that it is only of waste State land which is not being assessed to revenue that a grant can

XIII (3), Page 129.—For the latter portion of Direction 83, beginning with the words "The apex" to the end, the following shall be substituted:—

"If the plot of land to be described is a complete numbered survey plot, the survey number of the plot and the name and number of the *kwin* and the year of the *kwin* map are sufficient.

"If the plot of land is not a complete numbered survey plot, then—

- (i) The apex of each angle of the plot must be fixed by giving its distance and direction from two fixed points, or its location on some fixed line, and its distance from one fixed point, *e.g.*, in the case of a point on a *kazin*, its distance from the *kazin* corner.
- (ii) The description of the boundaries should start from the western extremity of the northern boundary and should indicate in succession the northern, eastern, southern and western boundaries.
- (iii) If permanent survey marks or the numbers of survey plots are referred to, the names and numbers of the *kwins* in which they are situated should be mentioned and the year of the map should be given. If streams, canals, roads and the like are referred to, their names should be given, and it should be made clear if they fall within or without the boundary."

(Financial Commissioner's Notification No. 12, dated the 28th January 1909.)

be made under Rule 54A. The expression "waste" includes land which has been under cultivation and has been abandoned as well as land which has never been cultivated.

83. The boundaries of land which it is proposed to grant as a site for a *thein* or for the erection of a religious edifice or for a public purpose should be defined in accordance with the following instructions:—

The apex of each angle of the plot of land should be fixed with reference to two permanent survey or other marks or if no such marks are within suitable distance with reference to the junctions of the *kazins* of the nearest numbered survey plots. The definition should run somewhat as follows:—

North.—from A, a point chains distant from the junction of the *kazins* of survey plots Nos. and chains distant from the junctions of the *kazins* of survey plots Nos. Eastward (or as the case may be) a distance of links to B a point (to be defined as in case of point A).

South.—From C. etc. (as for A) eastward (or as the case may be) a distance of links to D, etc. (as for A.)

West.—From A to C a distance of links

East.—From C to D a distance of links.

Potta Surveys.

84. *Potta* surveys, i.e., surveys of land of which grants or leases have been applied for, may be executed by—

- (i) the ordinary Land Records staff of the district, which should not, however, be employed on such surveys to the detriment of its regular work. In this case no survey fees are leviable;
- (ii) a special staff specially employed for the purpose and paid out of fees levied under the authority of Rule 63 (4) either—
 - (a) by piece-work, or
 - (b) by monthly salaries.

All such fees must on the day of receipt be credited in the treasury or sub-treasury with a chalan in T. F. No. 2 to the revenue accounts head "16, Survey fees for Pottas—Surveys by piece-work" or "17, Survey fees for pottas—Surveys by establishment on monthly salaries," according to the method of payment adopted. In order to avoid mistakes in crediting fees the Collector

should determine beforehand, when making his budget proposals which of these two methods is more suitable for each township, and the method selected in each case should be exclusively followed throughout the year.

85. Payment by piece-work is the most suitable mode of remuneration when the number of applications to be dealt with, although beyond the powers of the ordinary Land Records staff, is not so large as to necessitate the employment of special inspectors to check the work of the special surveyors. In such cases the Collector or Assistant Collector receiving an application for a grant or for a lease of land may employ the necessary surveyor, and on his certificate that the survey has been accurately made the Collector, after examining the proceedings in each case shall disburse or cause to be disbursed by the officer who dealt with the application the fees paid by each applicant or such portion of them as he thinks fit to the surveyor by whom the plan was made and shall at the same time note or cause to be noted in the diary of the proceedings the fact, date and amount of such payment. This precaution is absolutely necessary to avoid double payments. The amount so paid shall be drawn from the treasury in T. F. No. 25 and shall be debited to **"3, Land Revenue—Potta Survey establishment—Payments by piece-work,"** suitable provision to meet such charges being made in the budget.

86. When the actual or expected number of applications is too large to be satisfactorily disposed of under the piece-work system and a special staff on fixed monthly salary is considered necessary, suitable provision to meet the anticipated cost must be made in the budget under the head **"3, Land Revenue—Potta Survey establishment — Temporary establishment on monthly salaries."** Proposition statements in duplicate showing the exact strength of establishment proposed and the period for which it is required, together with a re-appropriation statement, when the budget provision is insufficient, and all necessary particulars regarding the amount and nature of the work to be done, and the amount of fees realised or likely to be realised, should be submitted through the usual channels so as to reach the Financial Commissioner at least two months before the date from which it is proposed to entertain the establishment. The pay-bills of such temporary establishments should be prepared in the ordinary establishment pay-bill form and not in T. F. No. 25. The Collector is responsible that the total cost of the establishment entertained does not exceed the total amount of the fees realised on account of the work done or to be done.

CHAPTER VI.

DISPOSAL OF STATE LAND IN TOWNS AND CIVIL STATIONS.

Disposal of land near Government buildings.

87. To ensure that land which may shortly be needed for Government purposes is not given out and that no land is granted or leased in the neighbourhood of Government buildings in such a way as to endanger such buildings through risk of fire, the Local Government has directed (Revenue Department Circular 59 of 1903) that Revenue Officers shall be guided by the following instructions in the future disposal of waste lands:—

(i) The Executive Engineer will keep the Collector informed from time to time of the areas of waste land in towns which, in his opinion, should be kept in the possession of Government as being likely to be needed in the future for Government buildings or other public purposes, and within such areas no grant or lease will be given by the Collector or a subordinate Revenue Officer without prior reference to the Executive Engineer.

(ii) No grant or lease of waste land for building or other purposes shall be made in any town or village within fifty yards of land occupied as the site of a Government building without prior reference to the Executive Engineer. The boundaries of lands so occupied should be demarcated where this has not already been done.

(iii) If in any case referred to the Executive Engineer as above the Collector does not agree in the views of the Executive Engineer, the case should be submitted to the Commissioner for orders.

Leases in Civil Stations.

88. The proceedings in connection with applications for leases of land in a Civil Station shall be submitted for the sanction of the Financial Commissioner to the rent which it is proposed to charge. The Local Government has delegated to the Financial Commissioner the power reserved by Rule 51N. to fix rents for leases in Civil Stations.

Leases for Club-sites.

89. Leases of sites for clubs, *i.e.*, places for outdoor as well as indoor recreation, can be made only with the sanction of the Financial Commissioner under Rule 51Q and in the special form prescribed Form XXXV, page 208. As the Collector is the officer whose duty it will be to see that the covenants and conditions of the lease are observed, it is necessary that the

lease should be made out in the name of some other resident who is prepared to accept the position of trustee of the club. The instrument is liable to stamp duty as a lease and to a stamp-duty of Rs. 15 on account of the declaration of trust in covenant 12.

Disposal of Survey fees for town leases.

90. All fees levied under the authority of Rule 51D must on the day of receipt be credited in the treasury or sub-treasury with a chalan in Treasury Form No. 2 to the revenue accounts head "18 (iii)—Fees for survey of other than potta lands." An estimate of the probable receipts under this head should be entered in the budget.

91. If a salaried surveyor is not available the Collector may employ the necessary surveyor, and may pay him such sum not exceeding the amount of survey fees levied as he considers sufficient. The amount so paid shall be drawn in Treasury Form No. 25-A and shall be debited to the budget head "3, Land Revenue—Charges of District Administration—Revenue Establishment—Survey Establishment—District Establishment—Temporary Surveyors,"—suitable provision to meet such charges being made in the budget.

CHAPTER VII.

TRANSFERS OF STATE LAND.

Transfers of interests in State land permissible.

92. It has been ruled by the Financial Commissioner (Revenue Revision 34 of 1893) that the meaning of clause (a), section 25, is "that a lessee of State land has no heritable or transferable right of use or occupancy therein *against the Government*, that is to say, the lessee has no right (subject to the rules made under the Regulation) to transfer the land, and his heir has no right to occupy the land after his death, if the Government forbids the transfer or the succession, as the case may be, or desires to make other disposal of the land. There is nothing either in the Regulation or in the rules which prohibits transfer by a lessee of such interest as he has in his holding. The Government has the power to hold a lessee to the terms of his lease, to compel payment by him of the stipulated rent, to evict him on failure to pay and thereafter to dispose of the land as it thinks fit. It may decline to recognize any transfer and may deliver the land to any third person notwithstanding that a transferee of the original lessee is in occupation. But if the Government does not forbid transfer by a lessee of his interest or does

not desire to make other disposal of the land there seems to be no reason, either in law or equity, why the lessee should not make such transfer of his interest in the land as he pleases. The law contained in section 25 of the Regulation appears to be designed to protect the Government in its right (i) to the rent of the land and (ii) to freely dispose of the land, subject only to the restrictions set out in the lease. Neither of these two rights is affected prejudicially by any transfer of his interest in the land by a lessee. The Government can enforce payment of the rent by the transferee whom it has temporarily accepted as a tenant, or, if it so pleases, it can eject the transferee as having occupied the land without permission."

N.B.—In this ruling, which does not apply to island lands (see Directions 62 and 65), "lessee" is used as equivalent to "occupier" and not in the restricted meaning of a person holding a lease granted under the Regulation.

Reports of transfer and subletting.

93. Every person who acquires possession of State land is required by Rule 85 to report such acquisition to the *thugyi* of the village, and a similar report is required by Rule 85 from every occupier of State land who leases any portion of his holding to a sub-tenant. The *thugyi* shall enter the details in the prescribed form, and shall give one copy to the person making the report, and shall send the duplicate to the Assistant Collector in charge of the township, who will submit the reports, through the Assistant Collector in charge of the subdivision, to the Collector at the close of each month. The penalty set out in Rule 87 should be judiciously inflicted, but where a *thugyi* has failed to record and report any acquisition, appropriation or occupation on his own part or that of any resident relative, the penalty should, as a rule, be rigorously enforced.

Principles for dealing with transfers to non-agriculturists.

94. The following principles shall be followed in dealing with transfers of State land to non-agriculturists, or to *thugyis*, or their relatives, and with the occupation of waste or temporarily uncultivated State land by *thugyis* which have been reported in compliance with the foregoing Direction. The object of these orders is to prevent State land from falling into the hands of non-agriculturists and also to check the appropriation by *thugyis* of cultivated State land within their charges:—

- (1) In the case of State land held under lease, the Township Officer [under clause (iii), Rule 40] shall decline to allow the transfer of the whole or any part of the land leased

to a non-agriculturist either by sale, gift, mortgage, or other private contract. If, notwithstanding the prohibition, the transfer is made, the lessee has committed a breach of the conditions of his lease, and the Collector should at once cancel the lease and resume the land under Rule 41.

- (2) If State land not held under lease is found to have been transferred or sub-let to a non-agriculturist, the Collector shall proceed peremptorily to eject the transferee under section 25 (d).
- (3) If State land not held under lease is found to have been transferred to the *thugyi* of the village or to any of the immediate relatives of the *thugyi*, the Assistant Collectors in charge of the township and subdivision shall state, when submitting the *thugyi*'s report as directed below, whether they recommend the transfer, and the Collector shall then decide whether the transfer should be allowed. If the Collector disallows it, he shall proceed at once to eject the transferee.
- (4) A *thugyi*, or resident relative of the *thugyi*, shall not under any circumstances, occupy any waste* or uncultivated State land (*e.g.*, river-banks or islands, which annually become technically waste by river action) within his charge without the written license of the Collector under Rule 68 (2). A *thugyi* or any residential relative of the *thugyi*, who occupies such land without the Collector's written license, should be served with a notice of ejectment in accordance with Rule 69 and, if he does not comply with such notice, should be punished in the way described in clause (2) of that rule.

X

CHAPTER VIII.

ASSESSMENT OF LAND REVENUE.

Assessment of fruit-trees.

95. The assessment of revenue on fruit trees in districts which have not yet come under settlement is governed by the following instructions :—

- (i) All fruit-trees planted by occupiers of State land on such land shall, in the first instance, be considered to be

* See Direction 82, last sentence, pag 128.

XIII (4), Page 134.—*Add* the following at the end of Direction 94 :—

“The Financial Commissioner has decided that rural Co-operative Credit Societies are agriculturists within the meaning of this Direction, and transfers of land to them must not be discouraged under the orders contained in this Direction.”

(Financial Commissioner's Notification No. 20, dated the 30th January 1909.)

- State property, but the Collector must in each case decide any claim which may be made to any "lien upon or other interest in" the produce (*e.g.*, fruit-trees) of State land.
- (ii) The right to collect the produce of fruit-trees standing in homestead plots in towns and villages shall not be disposed of by auction, and the sale or lease of such a right in towns and villages shall be confined to fruit-trees standing on unoccupied State land.
 - (iii) Fruit-trees standing in homestead plots exceeding one-quarter of an acre are liable to assessment only as part of the land. If the owner of the trees be not the occupier of the land, the trees should be assessed separately at the sanctioned rates.
 - (iv) Fruit-trees standing in homestead plots of one-quarter of an acre or less are not liable to assessment to revenue.
 - (v) When the land on which fruit trees have been planted pays full revenue rates, no additional revenue shall be charged for such trees and they shall not be sold by auction.
 - (vi) All solitary fruit-trees standing on village lands shall be sold by auction.
 - (vii) Fruit-trees standing in clumps of sufficient size to be assessed by the area shall be assessed by the area at garden rates; but care must be taken that the assessment on the acreage shall never exceed the aggregate of the demand which would be made if the assessment were by the tree at the sanctioned rates. "Sufficient size" may be taken ordinarily at half an acre; but it is left to the discretion of the Collector to determine when an area is of "sufficient size" to warrant an assessment on the acreage.

Assessment of land held by Municipalities.

96. The Government of India have issued the following orders regarding the assessment of land revenue on land held by Municipalities :—

- "(1), (a) lands such as roads and sites of hospitals, dispensaries, schools and the like, which yield no return to private individuals or local bodies and are devoted to

public purposes, should be exempt from assessment to land revenue subject to the conditions :—

- (i) that when the value of the land revenue proposed to be remitted, capitalized at 4 per cent., exceeds the limits laid down in Government of India Resolution No. 1—141-51, dated the 6th February 1872 [Appendix III, page 158] (namely, Rs. 3,000), the previous sanction of the Government of India shall be obtained to such remission, and
- (ii) that the exemption shall continue only for such time as the condition upon which it is made is fulfilled.

“(b) lands appropriated for markets, cart-stands and similar objects from which an income is raised, should contribute their share of land revenue.”

“(2) Redemption of land revenue, in cases where it is leviable under the instructions conveyed in the foregoing paragraph, is contrary to the policy of the Government of India, and should not in future be permitted.”

CHAPTER IX.

RECOVERY AND REFUND OF REVENUE.

Issue of process against defaulters.

97. Warrants of arrest of revenue defaulters should not be issued unless the officer who issues them is satisfied that the revenue cannot be recovered by less stringent measures. The practice of issuing warrants of arrest, although the whereabouts of the defaulter are unknown, merely to justify an application to strike off the revenue as irrecoverable, is objectionable and should not be followed, nor should two or more different kinds of process be issued simultaneously for the recovery of the same arrear. It is obviously a waste of time to issue a warrant or any other process when it is known beforehand that the defaulter will not be found or that he has no property of saleable value. The seizure and sale of a hut or of a few cooking and water-pots benefits the revenue little and causes an amount of hardship quite out of proportion to the advantage which accrues to Government. When a warrant or other process is returned unexecuted and a fresh warrant or other process of the same kind is issued against the same individual, even although addressed to a different officer from the officer to whom the first warrant or other process was addressed, it should, for statistical and

all other purposes, including levy of process fees, be counted as one with the original warrant and the figure "1" only entered in the appropriate column of the Register of Revenue Recovery Proceedings. The effect of this order will be that the largest number of processes which can be shown in that Register as issued against any one individual defaulter is one notice, one warrant of arrest and one warrant each of attachment of moveable and of immoveable property. Any occasional tendency shown by subordinate Revenue officers to indulge in too free an issue of process should at once be checked by the Collector. It is not considered necessary to prescribe any periodical return for this purpose, but there is no objection to the issue of orders by Collectors to their Assistant Collectors requiring each of them to report when the number of processes of each kind issued by him exceeds the average number issued during the three preceding years.

Fees on process against defaulters.

98. Under Rule 188 (3) processes for the recovery of revenue are issued without prepayment of the fees prescribed by Rule 183. When the arrear and costs have been recovered it is the duty of the officer who issued the process to see that the proper fees leviable are affixed to the application for process or to the sheet bearing the order directing its issue, as required by Rule 187. Under section 44 (2) such process fees are recoverable as if they formed part of the arrear of revenue, and they can be remitted only by the Collector or other officer who is empowered to strike off or remit arrears of revenue. An Assistant Collector who issues process for the recovery of an arrear of revenue is not authorised to forego the levy of the proper fee chargeable for the process issued by him. If he considers that the process fee in any case should not be demanded he should apply to the Collector for sanction to forego its levy, or, if the fee has already been collected, for its refund.

99. In the case of fees due for process issued for the recovery of arrears of municipal taxes, which, under section 206 of the Burma Municipal Act, 1898, are recoverable as arrears of land revenue, when the Municipal Officer empowered as a Revenue Officer under section 44 (1) (a) to issue process for the recovery of revenue considers it advisable to strike off or to remit fees due on account of processes issued by him in such capacity, he should submit the proceedings, with his recommendations, not to the Municipal Committee, which has authority to remit arrears of municipal taxes only, but to the Collector of the district, who may pass such orders as he thinks fit.

Issue of Sale Certificates.

100. When land is sold for arrears of revenue under Rule 173, the Collector, on receipt of the Commissioner's confirmation [Rule 174, (2)], grants a certificate of sale in Form No. XXVIII to the purchaser (Rule 176). Copies of this certificate are at the same time sent to—

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- (a) the Registering Officer in charge of the township ;
- (b) the Revenue Surveyor in charge of the circle in which the land is situated.

The copy sent to the Registering Officer shall be endorsed with the date of receipt and filed by him in Supplementary Register book No. I. The copy sent to the Revenue Surveyor shall be returned by him with an endorsement certifying that the necessary alteration has been made in the holding register, and shall then be filed in the sale proceedings, which may be closed and sent to the record-room.

No commission payable to Bailiffs on revenue recovery sales.

101. There is no authority for the payment of commission to Bailiffs on sales of moveable property for the realization of arrears and no commission should be paid to them.

Procedure when defaulter has left district.

102. When an arrear of revenue is due by a person who has absconded to, or who resides within, some other district, and when the arrear cannot be recovered by the attachment or sale of the defaulter's property within the district in which the arrear has accrued, the Assistant Collector in charge of the township or subdivision before whom the proceedings for recovery are pending shall ascertain as far as possible and note in his proceedings the whereabouts or residence of the person from whom the arrear is to be recovered and shall then submit the proceedings to the Collector of the district.

103. If the defaulter has absconded to the other district or, being resident in it, is reasonably believed to be about to abscond from it, the Collector shall, on receipt of the proceedings, forward them with a certificate under section 3 of the Revenue Recovery Act (I of 1890) to the Collector of the district in which the defaulter is believed to be. The certificate must be signed by the issuing Collector with his own hand and (if there are two or more defaulters) a separate certificate must be

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sent for each defaulter. The Collector to whom the certificate and proceedings are sent will forward them for necessary action to the Assistant Collector in charge of the township if in Upper Burma or the Township Officer if in Lower Burma within whose jurisdiction the defaulter is to be found. The Assistant Collector or Township Officer will proceed to recover the revenue, if possible, and will enter in the proceedings what action has been taken and the amount of revenue, if any, recovered. He will then resubmit the proceedings to his Collector or Deputy Commissioner, who will return them to the Collector from whom they were received.

104. If the Collector of the district in which the arrear has accrued has no reason to believe that the person by whom the amount is owing is likely to abscond, he shall, before issuing a certificate under the Revenue Recovery Act, send a notice (in Form XXIV) to

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the defaulter requiring him to pay the arrear or to appear on a date to be fixed in the notice, and to show cause why such amount should not be realized from him. This notice will be sent in duplicate for service (without the proceedings) to the Collector within whose district the defaulter resides, and after being dealt with in the ordinary course, the duplicate copy will be returned, with the method of service endorsed upon it, to the Collector by whom it was issued. If the Collector is satisfied that the notice has been duly served and if the defaulter has failed to pay the amount due by him or to show cause against such payment on the date fixed in the notice, the Collector shall proceed to recover the arrear by the issue of a certificate under the Revenue Recovery Act in the manner indicated in Direction 103.

Procedure for Refund of Revenue wrongly assessed.

105. When the Collector *in the absence of any application* strikes off an erroneous demand of revenue, whether on receipt from the Superintendent of Land Records of *plus* and *minus* statements as in the case of land-revenue, or otherwise, he shall send to each assessee concerned, through the Assistant Collector in charge of

Page 213.

the township, a notice of refund in Form XXXVIII appended showing the amount struck off, and informing him that, if he does not apply for a refund thereof within three months, his claim will be treated as waived.

106. If the revenue has been collected the assessee will fill in the form and submit it to the Assistant Collector in charge of the township, after showing it to the *thugyi*, who shall, if the revenue

has been paid into the treasury or sub-treasury, fill in the certificate on the form. He will know the date on which the revenue was paid to him from the entry in the memorandum detached from the tax receipt, and unless he can say when the money was paid into the treasury or sub-treasury, it may ordinarily be assumed that he will have paid the sum into the treasury or sub-treasury when he next made such payment.

107. The Assistant Collector in charge of the township on receiving the application shall verify the payment, if made into the sub-treasury, and will then submit the application to the Collector.

108. On receipt of the application, the Collector, after such verification as is possible of the entries, shall cause a refund order to be made out in Form T.F. No. 45 and shall send it with the proceedings to the Assistant Collector in charge of the township, who will proceed as laid down in Rule 239B.

CHAPTER X.

MINERALS.

Procedure for issue of mineral licenses.

109. Applications for licenses for the extraction of minerals may be made either direct to an officer empowered to issue them, or to the *thugyi* within whose charge the applicant resides. The *thugyi* shall submit to the Collector or the officer of lowest grade empowered by him on or before a date to be fixed by the Collector in this behalf a list of persons who have applied to him for licenses showing the kind of the mineral for which each license is required, together with a rough sketch or description of the place selected for excavation, and a report as to the advisability of granting the application. The Collector or other officer, as the case may be, shall then note in the list, against each name, the amount of rent, fee or royalty chargeable under the form of license which it is proposed to issue, fill in the licenses and counterfoils and deliver the former to the *thugyi*, who will make them over to the applicants on payment of the prescribed fee in the case of licenses for which fees are payable in advance. Within one month after the issue of the licenses the *thugyi* shall credit into the sub-treasury the amount collected by him and shall return to the Collector or other officer the licenses for which he has been unable to realize the fees due, or which the applicants decline to accept. Such officer shall cancel such licenses by tearing them across and by writing on them the

XIII (5), Page 140.—*Renumber* Direction 108A as 108AA and *insert* the following *before* that Direction, under the heading “**Thugyis’ Commission**” :—

“108A. It is not permissible to make out a bill for commission due to a village headman or *myothugyi*, for the amount of commission due upon the revenue collected by him and then to credit the amount so drawn as revenue collected. A headman or *thugyi* must collect the revenue and give receipts for it to the taxpayers before he credits it to Government. He must not be allowed to credit the money to Government in advance of the collection.”

(Financial Commissioner’s Notification No. 33, dated the 25th February 1909.)

XIII (6), Page 140.—*Insert* the following as **Chapter IX-B** :—

CHAPTER IX-B.

Statement to be prepared by Headmen.

108F. Every village headman will, at the end of the financial year, prepare a return of the agricultural stock in his village-tract. The headman will enumerate the stock on the 15th waning of *Tabaung*, in each year. He will record the results of the enumeration in Form $\frac{\text{Revenue}}{\text{L. B. Land 34}}$ (vide page 213).

108G. In tracts under Supplementary Survey and wherever there are Revenue Surveyors, the Revenue Surveyor will collect the returns of agricultural stock prepared by the headmen of the villages in his charge. He will, so far as possible, check all returns and will then abstract them village by village in Form $\frac{\text{Revenue}}{\text{L. B. Land 34}}$. He will retain a copy of the abstract

and will submit both the original abstract and the village returns to the Township Officer before the 15th April. The Township Officer will transmit them through the Subdivisional Officer to the Deputy Commissioner. These returns should reach the Deputy Commissioner by the 1st May.

108H. In tracts not under Supplementary Survey and where there are no Revenue Surveyors, the Township Officer will collect the headmen’s returns and prepare the abstracts.

108I. In towns the return will be prepared by the surveyor in those places which constitute the surveyor’s whole charge, but where the surveyor is in charge of more than one town, the enumeration should be done by the ward headman. The enumeration will take place about the 15th waning of *Tabaung*, in each year. When the return is prepared by ward headmen, the surveyor will collect the returns prepared by the headmen of the wards in his charge. He will, so far as possible, check all returns and will then abstract them ward by ward in Form $\frac{\text{Revenue}}{\text{L. B. Land 34}}$. He will retain a copy of the abstract and will submit both the original abstract and the town returns to the Township Officer before the 15th of April. The Township Officer will transmit them through the Subdivisional Officer to the Deputy Commissioner. These returns should reach the Deputy Commissioner by the 1st of May.

(Financial Commissioner’s Notification No. 33, dated the 25th February 1909.)

XIII (7), Pages 141—149.—*Cancel Chapter XI.*
(Financial Commissioner's Notification No. 186, dated the 13th October 1908.)

word 'cancelled' over his dated signature, and shall cause them to be pasted on the counterfoil. When an application is made to a *thugyi* after he has submitted his annual list, he may either make out a supplementary list or may direct the applicant to apply direct to the officer empowered to issue licenses. *Thugyis* should also be required when submitting the list of applications made to them to add to it the names of persons who have not applied but who are believed to be extracting, or to be likely to extract, during the course of the year, minerals for which licenses are necessary. Officers should make use of the list when on tour in order to ascertain whether unlicensed extraction of minerals is being carried on. *Thugyis* will draw a commission of 10 per cent. on all collections made under this Direction.

CHAPTER XI.

FISHERIES.

Excluded fisheries.

110. Collections of water in reserved forests or collections of water in borrow-pits or in other land under the control of the Public Works Department or of the Railway Department or of an Embankment Officer cannot be leased as fisheries, nor can licenses to erect fixed obstructions or to use fishing implements in them be issued. The Local Government has decided that the regulation of fishing in such collections of water may be left entirely to the officers of the Departments concerned. No prosecution for unlicensed fishing in such collections of water should therefore be instituted except at the instance of an officer of the Department concerned.

In order to ensure that these powers are exercised in such a way as not to cause damage to neighbouring fisheries under the control of Collectors, the Local Government has directed that when an officer of the Forest or Public Works Department or of the Railway Company proposes to issue a license for the purpose of catching fish in waters which are connected for the whole or part of the year with other fishery waters not under the control of these Departments or that Company, no permission to erect weirs or traps or to use fishing implements may be given without the previous approval of the Collector. Officers of the Public Works Department and of the Railway Company have been informed that the use of poison or drugs for the purpose of catching fish may in

no circumstances be permitted, and that the power to grant licenses to fish does not extend to streams crossing Public Works or Railway lands.

Disposal of fishery tanks (Rule 98)

III. Tanks dug by cultivators on land in their occupation which contain water throughout the whole of the year or which are connected during a part of the year with waters of a permanent nature are fisheries under section 32. When such tanks are used wholly for the purposes of cultivation and are on land assessed to land revenue they will not be assessed as fisheries.

When a tank is used wholly or partly for the purpose of catching fish an upset price will be fixed for it, as a leased fishery, by the Collector, and a lease of it at that price will be offered to the person on whose land it is situated. If the occupier of the land refuses the lease, the fishery will be put up to auction and sold to the highest qualified bidder. If there are no bidders it will be disposed of in such manner as the Commissioner may decide in each instance.

Fixed obstructions in leased fisheries (Rules 101 and 118).

112. Fixed obstructions are permitted at such places and within such dates as the Collector may fix at the time of disposal of the lease. The Burmese dates fall at different seasons in each year and the periods within which fixed obstructions are permitted should therefore be fixed according to the English calendar. The corresponding Burmese date in each year should then be ascertained and entered in the lease in Form No. XX. (Page 189).

Sale of leased fisheries (Rules 99 and 102).

113. When the lease of a fishery is sold by auction, the advertisement issued under Rule 101 should be in **Form A** appended (in Burmese). The names of the bidders at the auction, the bids made, and the name of the purchaser should be recorded in **Form B** appended.

114. It is the duty of the officer conducting an auction of fishery leases to refuse to accept the bids of persons obviously under the influence of liquor. Any appearance of hurry should be, as far as

possible, avoided, and it may be advisable when the bidding becomes excited and there is reason to believe that the bidders are losing sight of the value of the fishery, to call for a short halt, or even to proceed with the auction of the next fishery. A bid far in excess of any price previously paid for the fishery should be accepted with the greatest caution and only after the auctioning officer has satisfied himself that the bidder fully realizes what he is doing.

115. The issue of licenses to use the *pazunbaung* or *paungdamin* (serial No. 30, Schedule A ; serial No. 7, Schedule B) should be restricted to streams where the Collector is satisfied that it will not obstruct navigation.
 Pages 98 and 100.

Security to be given by lessees (Rules 109 and 110).

116. (i) The auction-purchaser of a fishery lease shall ordinarily be required to furnish adequate security for the payment of the annual rent (less earnest money in the case of a fishery which has been sold for one year only) during the entire period of the lease; in other words the value of the property pledged must not be less than the rent of one whole year and the sureties must execute the security bond in full detail, pledging their property for due payment in each year of the period of lease. The Collector is, however, authorised to accept security for some lower sum, as for example in the case of fisheries where work is carried on at two distinct periods of the year, and the value of the take at one is not less than a quarter of the value of the take at the other, or to accept as security in whole or in part the personal security of an auction purchaser or of a surety who is a well-known man and has worked fisheries without default for several years, or is notoriously possessed of means. Lists of fishermen showing the amount for which the personal security of each may safely be accepted should be compiled and kept in the personal custody of the Collector.

(ii) The Collector may find good cause to release a surety or all the sureties from their obligation at the end of any year. In such case he should call upon the lessee to furnish new security in accordance with condition (iv) of the lease, and should not release the former sureties until sufficient further security has been tendered and a new bond executed.

(iii) Moveable as well as immoveable property may be accepted as security, no matter in what district it is situated. Second mortgages on property already pledged to Government are, however, inadmissible.

Verification of security (Rule 111).

117. (i) When the auction purchaser of a fishery lease has paid the earnest money and, where necessary, has filed a list of the property offered in pledge as security for the unpaid balance of the rent, the property shall be valued by such officer not below the rank of an Assistant Collector in charge of a township as the Deputy Commissioner may by general or special order direct. It will probably be found convenient for the purpose of such valuation to divide the fisheries in each township by tracts or circles between the Assistant Collectors of the first and second classes. Where the amount of revenue to be secured does not exceed Rs. 200 the report of the *thugyi* (if revenue collecting) may be accepted without further verification.

(ii) Except where the property offered in pledge is land, the verifying officer shall personally inspect it, shall examine *thugyis* and village elders as to the value, ownership and encumbrances on such property and shall reduce their statements to writing.

(iii) In all cases where land is offered as security the verifying officer shall send to the revenue surveyor within whose charge the land is situated, particulars of the land including the number of holding and name of *kwin* so as to enable the surveyor to identify and report on the land. The surveyor shall thereupon fill in from

his registers a statement in **Form C** appended
 Page 215. and send it to the verifying officer with such additional information relating to encumbrances (if any) on the land as may be available. The verifying officer should inspect the Land Records registers and should supplement his inspection by such further enquiries as he considers necessary.

(iv) If any part of the property offered as security is situated outside the local limits of the jurisdiction of the verifying officer, he shall send a list of such property direct to the officer or officers in charge of the township or townships in which it is situate. Each such officer shall then proceed as if the property had been offered as security for the rent of a fishery in his own township and shall after verification return the list with such remarks as he thinks fit to make direct to the officer from whom he received it together with a duly executed security bond.

(v) Property pledged as security for the rent of a fishery which has been leased for a period exceeding one year should be verified annually at the same time as the verification of property offered

as security for the rent of fisheries leased for one year only. In order to avoid the necessity for sending the security bonds out of the Collector's office for the purpose of this verification, a

Page 216. statement of the property mortgaged on account of each fishery should be made out in Form D appended and should be sent to the verifying officer, who will verify, sign and return it with any remarks which he may think fit to record.

(vi) If as a result of his verification the officer verifying the property finds that it is not of value sufficient to secure the rent or such lower sum as the Collector has directed, he shall at once require the auction-purchaser to file a list of further security which he shall then proceed to value.

Execution of leases and security bonds (Rule 109).

118. (i) When the verifying officer is satisfied that the property offered in pledge is of sufficient value to secure the outstanding instalments of the rent, or such other sum as the Collector may have decided to be necessary, he shall cause a security bond

Page 191. in the prescribed form (Form No. XXI) to be executed by the sureties. He shall then submit the record (if any) of his enquiries, together with the security bond, to the Collector who shall pass orders either accepting it as sufficient or requiring additional security to be furnished, and, in the latter case, shall direct the verifying officer to take such further security and to send up an additional security bond. All security bonds shall be kept in the bond box in the Treasury strong-room.

(ii) After the security has been accepted as sufficient, the Collector shall execute the lease in duplicate on behalf of Government and shall forward it to the Assistant Collector in charge of the township for execution by the lessee and return of the counterpart after such execution for record in his office.

119. Rule 109 requires that the lease and bond shall be executed within thirty days from the date of the auction and Rule 112 declares that if this requirement is not fulfilled, the lease may be resold at the risk of the auction-purchaser. In many districts it is impossible to complete the verification of security within the allotted time, and as a rule the penalty should not be exacted so long as the lease and security bond are executed on or before the 31st August following the date of the auction, provided that this concession should not be made in respect of fisheries which, if resold on default in September, would be likely to fetch a lower price than if sold at the

usual time. It should be remembered that the responsibility for furnishing security rests with the lessee himself and not with Government, and that it is not the duty of officers to issue repeated notices to lessees who fail to realise their position and liability in this respect.

Fishery rents (Rule 102.)

120. An annual return * in **Form F** appended showing the rents for the present and previous year of each fishery in the district will probably be useful for reference in the more important fishery districts, and Collectors should, if so directed, submit a return in this form to the Commissioner on the 1st August in each year.

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Licenses for fixed obstructions (Rule 130.)

121. As the question has arisen as to whether a licensee is required to erect a *yin* or screen for the purpose of catching fish in flooded paddy-fields, it is important to note that in order that a *yin* may fall within the definition of fixed obstruction as defined by section 32 it is necessary that it should be erected in water of a permanent nature, or which for the time is connected with water of a permanent nature, and that it should either impede navigation, interfere with the flow of the water, or prevent fish from proceeding up or down stream. These conditions will generally be fulfilled when the *yins* are placed across well-marked *yos* or channels. This must, however, be clearly established in every instance in order to prove that the erection of a *yin* without a license constitutes an offence. Cultivators should not be prosecuted for erecting such screens on land for which they pay revenue when the screens are not placed across clearly defined channels, and in no case in which a *yin* is erected by a cultivator on his revenue-paying land may a prosecution be instituted except under the orders of the Collector or Assistant Collector in charge of a subdivision.

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122. By Rule 123 licenses for fishing implements may be issued by the Collector or by any Assistant Collector authorized by him. Applications for licenses may be made either direct to an officer who is authorized to issue them or to the *thugyi* within whose charge the applicant resides. The *thugyi* must submit to the Assistant Collector in

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* After the fishery auctions have been concluded and sales confirmed the Deputy Commissioner should send to each Township Officer all the sale proceedings together with a list in Form Revenue—Miscellaneous 40 ("Township Officer's Calendar of dates for Collection of revenue payable in instalments") prescribed by Financial Commissioner's Circular No. 2 of 1903.

charge of the township (or other officer authorized, as the case may be), on a date not later than the 1st July in each year, a list of persons who have applied to him for licenses, showing the class of implement for which each license is required. This list should be prepared in the method laid down in Direction 26 for the preparation of *thathameda* assessment rolls. It should show first, the names of all the persons who hold licenses for the year expiring on the 30th June in the order in which their names appeared in the lists, original or supplementary, for that year, secondly the names of persons who obtained their licenses otherwise than through the *thugyi*, and lastly the names of new applicants and of other persons who are likely to use fishing implements during the year. When present holders of licenses do not desire to renew their licenses for the coming year, their reasons for non-renewal should be briefly stated. The Assistant Collector will then note in the list against each name the amount of fee payable for the implement which it is proposed to use, fill in the required licenses and counterfoils, and deliver the former to the *thugyi* who will make them over to the applicants on payment of the prescribed fee in each case. On or before the 1st August the *thugyi* shall credit in the sub-treasury the amount collected, and shall return to the Assistant Collector the licenses for which he has been unable to realize the fees due. The Assistant Collector shall cancel such licenses by tearing them across and by writing on them the word 'cancelled' over his dated signature, and shall paste them on the counterfoil. He shall also note

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the cancellation in columns 17-19 of the register in **Form I** appended against the entries of the licenses cancelled and in the monthly return in **Form J** appended. When an application is made to a *thugyi* after he has submitted his annual list, he may either make out a further list or may direct the applicant to apply direct to the Assistant Collector in charge of the township. The Assistant Collector in charge of the township should make use of the list when on tour in order to ascertain whether unlicensed fishing is being carried on.

Registers.

123. In addition to the Account Registers* prescribed for the entry of Fishery Revenue, the following fishery registers are to be maintained :—

- (1) **Permanent Register of leased fisheries (Form G appended).**—This is a permanent register and is to be maintained in all

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* Account Registers I and IV, Financial Commissioner's Circular No. 5 of 1902.

Collectors' offices. A separate page should be set apart for each fishery, and in the column of remarks a note should be made of the fixed obstructions which the lessee is permitted to erect.

- (2) **Annual Register of licenses for fixed obstructions** [Form H appended].—

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To be maintained in Collectors' offices. The register should be kept and the licenses numbered by the year ending the 30th June.

- (3) **Permanent Register of licenses for fishing implements**. [Form I appended].—

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This register must be maintained by all officers who are authorized [a] to issue licenses.

[a] Rule 123.

Immediately on the receipt of books of license forms the number and value of the licenses received must be entered in the register. When licenses are issued, the name of each licensee must be shown separately in the register. At the close of each day on which there have been issues, a balance must be struck showing the number and value of the licenses in hand in the same way as is done in the case of the Treasury Stamp Register (T. F. No. 197). Officers subordinate to the Collector who are authorized to issue licenses shall send a monthly abstract account to the Collector in Form J appended showing the licenses received from

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the district office and the total number of licenses issued during the month. The total amount collected by each *thugyi* shall be shown at the foot of the statement. Books of license forms must invariably be kept under lock and key, the key remaining in the possession of the *Akunwun* or the Assistant Collector in charge of the subdivision or township as the case may be. A copy of this register may also be used as a stock book of license forms received from Press.

- (4) **Register of licenses for fishing implements supplied to Subdivisional and Township Officers (Assistant Collectors)** [Form K appended].—To be kept

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up in the Collector's office. Separate pages should be set apart for the licenses supplied to each officer.

XIII (8), Page 149.—In Direction 140, clause (3), *for* the words “(a) to (h)” *substitute* the words “(a) to (g),” and *for* “(g) and (h)” the words “and (g).”

(Financial Commissioner's Notification No. 38, dated the 8th March 1909.)

When licenses are supplied the number and value of each class will be entered, and at the close of each month the total number and value of the licenses issued by the officer will be taken from the abstract account

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[**Form J**]. After every entry the register must be balanced so as to show the licenses in each officer's possession. When licenses are issued by the Collector direct to

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applicants, the register of licenses in **Form I** must be kept up in his office and a separate account kept in the register of licenses supplied in the same manner as for Assistant Collectors. Books of license forms received from Press, after entry in the ordinary Stock Book of Forms or in a separate copy of the Register in **Form I**, shall be kept under lock and key, the key remaining in the possession of the *Akunwun*. When taking over charge of an office a new *Akunwun* should check the entries in the Stock Book with the entries in the Registers in **Form I** and **Form K**, and should verify the correctness of the balances.

PART IV.
—
APPENDICES.

APPENDIX I.

Terms on which grants of land in Burma may be made to approved applicants who are willing to undertake the introduction of cultivators from certain parts of India.

GRANTS of land may be given to approved applicants undertaking to introduce emigrants from Chutia Nagpur and Behar, including the whole of the Patna division and the districts of Bhagalpur and Monghyr, on the following conditions, namely—

I.—Applications for grants under these rules shall be made to the Financial Commissioner and must be accompanied by satisfactory proof that the applicant has sufficient means to work the grant. The applicant must be approved by the Chief Commissioner before action is taken under the rules hereinafter recorded.

II.—The extent of the grant in each case will be determined by the Financial Commissioner, but without the previous consent of the Local Government* no grant shall be made in excess of 10,000 acres.

III.—Ninety per cent. of the cultivators settled on the land shall be natives of Behar, as above defined, and Chutia Nagpur.

IV.—The application must specify the approximate area of the land, the district and township in which it is situated, and the boundaries so far as they are known.

V.—With the application the applicant shall deposit four annas per acre to defray the cost of survey and demarcation. If the cost is less than four annas per acre, the excess will be returned to the applicant.

VI.—The land shall be revenue free for the following terms according to its description:—

Description of land.	DURATION OF TENURE FREE.	RATES OF FUTURE ASSES- MENT ON CULTIVATED AREA AND DURATION THEREOF.			
	Years.	One anna per acre.	Two annas per acre.	Four annas per acre.	Six annas per acre.
(1) Land covered with grass ...	3	3	3	9	15
(2) Land covered with reeds, elephant-grass, or bushes.	6	6	6	6	9
(3) Land covered with small trees not exceed- ing one foot in diameter.	9	6	9	6	...
(4) Land covered with large trees ...	12	12	9
(5) Forest jungle on hills ...	18	15

In determining the class to which each grant may belong, the character of three-fourths of the area, or as near that proportion as is possible, is to be considered as that of the whole. After the expiry of 33 years, two-thirds of the rates assessed on similar land in the neighbourhood will be charged

* Substituted by Financial Commissioner's Notification No. 29, dated the 22nd July 1898.

for 66 years. Thereafter the land will be liable to assessment under the law for the time being in force.

VII.—When the land comprised in the grant is assessed to revenue after the expiry of the term of 33 years, the grantee shall have the option of accepting the settlement of the land at the rates assessed, or of declining the settlement, in which case he shall be entitled to receive an allowance of 5 per cent. of the gross amount of revenue assessed on the land, and the Government may make such arrangements for the farming or leasing of the land for such period, not exceeding the period of settlement, as it may determine.

VIII.—Ten per cent. of the area shall be brought under cultivation during the first five years, and an additional 5 per cent. during each succeeding period of seven years up to the end of 33 years, when the grant shall become absolute.

IX.—Subject to compliance with the conditions above named the grantee shall be at liberty to transfer the grant during the first 33 years with the consent of the Local Government; after the 33rd year the grantee shall have a perpetual and transferable title, subject only to the laws and regulations regarding tenant-right which may be passed by the Legislature.

X.—The right to all mines and mineral products, coal, petroleum, and quarries under or within any land granted or leased is reserved to Government, with full liberty to the Government, its assigns, lessees, licensees, agents, workmen, and all other persons acting on its behalf or with its permission, to search for and work the same subject to payment of compensation on account of disturbance or surface damage. Such compensation shall be determined by the Deputy Commissioner as nearly as may be in accordance with the law for acquisition of land for the time being in force.

XI.—No person shall fell, sell, or remove for sale any teak trees standing on the land granted or licensed to him, except under a special license granted under the forest rules. But any person to whom a grant or lease of land has been made may fell, sell, or remove for sale or for private use, without license, any other kinds of trees, whether reserved or not standing on the land so granted or leased: Provided that any timber so felled shall be liable to pay the usual rate at any check station it may pass, but not elsewhere. If such person converts any such trees into charcoal or cutch, he shall pay the usual fee on licenses for the manufacture.

XII.—All changes in the grantee's possession of land by transfer or succession, and all mortgages and partitions of his interest, shall be reported in writing to the thugyi of the circle, in cases of succession by the person succeeding, in other cases by all parties to the transaction, within sixty days of such change, mortgage, or partition. The thugyi shall register the facts reported in the form of register* to be prescribed and shall obtain the signature of the person or persons reporting, and shall give the persons reporting a certificate that the report has been made.

XIII.—If any person, without good and sufficient cause neglects to make the report prescribed under Rule XII within the time specified therein, the Deputy Commissioner may impose on him a penalty, which shall not exceed Rs. 20 with a further daily penalty not exceeding Re. 1 for each day for continuing breach of the condition.

* Register No. X, Appendix I, in Directions to Revenue Officers concerning Supplementary Survey in Upper Burma. Form

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XIV.—Should any grantee neglect to fulfil the terms specified in these rules or any portion of them, the grant shall be resumed, or such other penalties shall be inflicted on the grantee as may be agreed upon when the grant is made: Provided that no resumption shall be made without due notice having been served on the grantee requiring him to show cause why his grant should not be resumed, after which proceedings shall be held and a decision formally recorded in each case. The decision shall be open to appeal in the usual manner.

APPENDIX II.*

Terms† on which grants of land in Upper Burma may be made to officers and men (time-expired and others) of the Upper Burma Military Police.

GRANTS of land in Upper Burma may be made to time-expired officers and men of the Upper Burma Military Police or to officers and men still serving in the force who can arrange to cultivate it without prejudice to the performance of their duties on the recommendation of the Inspector-General of Police.

2. The area of land to be granted shall not ordinarily exceed the following scale:—

	Acres.
For a commissioned officer	200
For a non-commissioned officer	100
For a private	50

Grants of land not exceeding the above areas may be made with the sanction of the Financial Commissioner.

3. In cases where a member of the Upper Burma Military Police can show that he has the means of cultivating an area in excess of that stated in Rule 2, and that he can provide cultivators from India in sufficient numbers to cultivate such area, a larger area may be granted with the previous sanction of the Local Government.†

4. Every application for land under these rules must specify the approximate area of the land, the district and township in which it is situated, and the boundaries of the land so far as they are known.

5. With the application the applicant shall deposit four annas per acre to defray the cost of survey and demarcation. If the cost of survey and demarcation is less than four annas per acre, the excess sum will be returned to the depositor.

* Published on page 303 of the Supplement to the *Burma Gazette*, dated the 29th March 1890.

† Substituted by Financial Commissioner's Notification No. 29, dated the 22nd July 1898.

6. The land shall be revenue free for the following terms according to its description :—

Description of land.	DURATION OF TENURE FREE.	RATE OF FUTURE ASSESSMENT ON CULTIVATED AREA AND DURATION THEREOF.			
	Years.	One anna per acre.	Two annas per acre.	Four annas per acre.	Six annas per acre.
(1) Land covered with grass ...	5	5	5	8	7
(2) Land covered with reeds, elephant grass or bushes.	7	7	6	5	5
(3) Land covered with small trees not exceeding one foot in diameter.	9	9	6	6	...
(4) Land covered with large trees ...	10	5	5	5	5

In determining the class to which each grant may belong, the character of three-fourths of the area, or as near that proportion as is possible, is to be considered as that of the whole. After the expiry of 30 years, two-thirds of the rates ordinarily assessed on land of similar quality in the neighbourhood will be charged for 60 years. Thereafter the land will be liable to assessment under the law for the time being in force.

7. When the land comprised in the grants is assessed to revenue after the expiry of the term of 30 years, the grantee shall have the option of accepting the settlement of the land at the rates assessed, or of declining the assessment, in which case he shall be entitled to receive an allowance of 5 per cent. of the gross amount of revenue assessed upon the land, and the Government may make such arrangements for the farming or leasing of the land for such period, not exceeding the term of settlement, as it may determine.

8. Ten per cent. of the area shall be brought under cultivation during the first five years, and an additional 5 per cent. during each succeeding period of five years up to the end of 30 years, when the grant shall become absolute.

9. Subject to compliance with the condition above named, the grantee shall be at liberty to transfer the grant during the first 30 years with the consent of the Local Government; after the 30th year the grantee shall have a perpetual and transferable title, subject only to the laws and regulations regarding tenant-right which may be passed by the Legislature.

10. The right to all mines and mineral products, coal, petroleum, and quarries under or within any land granted or leased is reserved to Government, with full liberty to the Government, its assigns, lessees, licensees, agents, workmen, and all other persons acting on its behalf or with its permission, to search for and work the same, subject to payment of compensation on account of disturbance of surface damage. Such compensation shall be determined by the Deputy Commissioner as nearly as may be in accordance with the law for acquisition of land for the time being in force.

11. No person shall fell, cut, girdle, mark, lop, injure by fire, sell or remove for sale any teak trees standing on the land granted or licensed to him, except under a special license granted under the forest rules but any person to whom a grant or lease of land has been made may fell, sell, or remove for sale or for private use, without license, any other kinds of trees, whether reserved or not, standing on the land so granted or leased: provided that any timber so felled shall be liable to pay the usual rate at any revenue station it may pass, but not elsewhere. If such person converts any such trees into charcoal or cutch, he shall pay the usual fee on licenses for the manufacture.

12. All changes in the grantee's possession of land by transfer or succession, and all mortgages and partitions of his interest, shall be reported in writing to the thugyi of the circle, in cases of succession by the person succeeding, in other cases by all parties to the transaction, within sixty days of such change, mortgage or partition. The thugyi shall register the facts reported in the form of register * to be prescribed and shall obtain the signature of the person or persons reporting, and shall give the person reporting a certificate that the report has been made.

13. If any person, without good and sufficient cause, neglects to make the report prescribed under Rule 12 within the time specified therein, the Deputy Commissioner may impose on him a penalty which shall not exceed Rs. 20, with a further daily penalty not exceeding Re. 1 for each day for continuing breach of the condition.

14. Should any grantee neglect to fulfil the terms specified in these rules, or any portion of them, the grant shall be resumed or such other penalties shall be inflicted on the grantee as may be agreed upon when the grant is made: provided that no resumption shall be made without due notice having been served on the grantee requiring him to show cause why his grant should not be resumed, after which proceedings shall be held and a decision formally recorded in each case. The decision shall be open to appeal in the usual manner.

15. Every person obtaining a grant of land under these rules may obtain an advance under the Land Improvement Loans Act, 1883, of the following amounts, provided he furnishes satisfactory proof that the money is to be expended in improving the land:—

	Rs.
Commissioned officer	600
Non-commissioned officer	300
Private	150

Loans in excess of these amounts may be granted with the previous approval of the Local Government. All such loans shall bear interest at 6½ per cent. per annum, and they shall be repayable in six equal quarterly instalments. The first instalment shall be due nine months after the loan is made. For the repayment of every loan two sureties shall be required, who shall be jointly and severally liable with the borrower for the repayment of the loan, and the land granted shall also be mortgaged to Government in security for the payment of the loan.

* Register No. X, Appendix I, in Directions to Revenue Officers concerning Supplementary Survey in Upper Burma. Form Revenue
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