

করিবেন আর বাকি আদায়ের পক্ষে আমার জামিনদারের আবক্ষিয়
 ষায়দাদ ও আমার নামি ও বেনামি স্থাবর অস্থাবর বস্তু যাহা প্রাপ্ত
 হয় নিলামে বিক্রয় করিয়া আদায় করিবেন তাহাতে আমার অথবা
 আমার ওয়ারিসান ও অস্থিানের কোন ওজর আপত্ত্য থাকিবেকনা আর
 ফলা ও অফলা বৃক্ষাদী বিক্রয় অথবা ছেদন করিবনা যদি আমার ক্রীতে
 মহাল মজকুরের কোন লোকসান হয় তাহার নেনান দিহি আমার জিম্মা
 হইবেক সরকারি মালগুজারি আদায় করনের বিষয়ে ছয়ল্লবি ও খুস্কি
 অথবা অন্য কোন দৈব ঘটনার ওজর করিবনা এবং মঞ্জুর হইবেকনা
 আর মহাল মজকুরের পতিত জমির খাজানা তাহা আমার তদবিরে
 আবাদ হয় তাহা ইজারার মেয়াদ শেষ পর্য্যন্ত আমার হক ও যদি ইজারার
 মেয়াদ মধ্যে আমার মৃত্যু হয় তবে সরকার বাহাদুরের ক্ষমতা থাকিবেক
 যে উক্ত মহাল অন্যের সহিত বন্দবস্ত করেন কিম্বা আমার উত্তরাধিকারি
 ও আমার জামিনদারের মঞ্জুরিতে মেয়াদ সমাপ্ত হওন পর্য্যন্ত আমার
 উত্তরাধিকারির সহিত উক্ত মহালের ইজারা বাহাল রাখেন আর ইজারার
 মেয়াদ মধ্যে সরকার হইতে যখন যে কাগজ তলব হইবেক তাহা বিনা
 ওজর দাখিল করিব না করিলে আইন মত আমলে আসিবেক আর প্রকাশ
 থাকে যে ত্রীয়ুক্ত কালেক্টর সাহেবের মঞ্জুরি ব্যতিরেক আমার কোন ক্ষমতা
 থাকিবেকনা যে উক্ত মহালের ইজারার সত্ত্ব অপরকে বিক্রয় করি অথবা
 দর ইজারা দেই কিম্বা অপরকে ইজারার অংশীদার করি যদি করি অথবা
 এই কবুলীয়তের লিখিত কোন সত্ত্বের অন্যথাচরণ করি তবে সরকারের
 ক্ষমতা থাকিবেক যে আমার ইজারা পাউ রদ করেন এতদার্থে কবুলীয়ত
 লিখিয়া দিলাম ইতি ।

তপসীল ।

কিস্তিবন্দী ।

No. 18.

عملہ پرگنہ	ساکن	ولد	منکہ
کاھون اقرار کرتا ہوں اور		متعلقہ ضلع	
متعلقہ ضلع		لکھدیتا ہوں اس وجہ پر کہ منقر محال	
روپیہ کمپنی جمع میں بمیعد		سالانہ میباغ	ملکیت
لغایت سنہ		من ابتداء سنہ	
پرگنہ	ساکن	مین	مالضہ

کے اجارہ لیا محال مذکور کے زر خزانہ رعیت لوگوں سے اٹین کے مطابق تحصیل
 کر کے اجارہ کا مالکدار ہی اپنے لکھ دئے ہوئے قسطنڈی کے موافق قسط بقسط ادا

کرونگا در صورتیکہ درمیان سال کے کوئی ایک قسط کے بیباق زر خزانہ یا تہوڑا اوس سے ادا نکرون تو کورٹ افوارڈس کو ہر صورت سے اختیار رہیگا کہ سالتمامی کے انتظار نکر کے اوسے سال کے درمیان میرے اجارہ پتہ کو رد اور منسوخ کریں اور زر باقی اداسے کے واسطے میرے ضامندار کے جائداد مفقولہ کو اور میرے جائداد مفقولہ اور غیر منقولہ نامی اور بینامی جو کچھ دستیاب ہو نیلام کر کے وصول کریں اوسمیں مجھکو اور میرے وارثان اور اوصیاء کو کچھ عذر اور اعتراض نہیں رہیگا اور اشجارات مثمرہ کو نہیں بیچونگا اگر میرے قصور سے محال مرقوم میں کچھ نقصان ظاہر ہو تو نشاندہی اوسکے میرے ذمہ ہی اور مالواجب اجارہ کے ادا کرنے کے باب میں خشکے اور غرقے اور دوسرا کوئی اوقات افات سماوی کے کچھ عذر درپیش نہیں کرونگا اور وہ منظور نہیں ہوگا اور زر خزانہ محال مرقوم کے پتہ زمین کے جو کچھ کے میرے تدبیر سے اباد ہو اجارہ کے میعاد اخر ہونے تک حق میرا ہی اور اگر درمیان میعاد اجارہ کے میں فوت کروں تو کورٹ افوارڈس کو اختیار حاصل ہوگا کہ محال مرقوم کو دوسرے ساتھ بندوبست کریں یا کہ میرے وارثان اور ضامندار کے منظوری ساتھ میعاد اجارہ اخر ہونے تک محال مذکور کے اجارہ میرے وارثان کے ساتھ بحال رکھیں اور درمیان میعاد اجارہ کے جسوقت جو کچھ کاغذ حضور سے طلب ہوگا بلا عذر اوسکو داخل کرونگا در صورت داخل نکرے اوسکے مطابق آئین کے عمل میں آویگا اور واضح رہے کہ بغیر منظوری کورٹ افوارڈس کے مجھکو اختیار نہیں رہیگا کہ محال مرقوم کے اجارہ کے حقیقت دوسریکو انتقال کروں یا کہ در اجارہ دیوں یا دوسرے کسی کو اجارہ مذکور کے شراکت میں لاوں اگر کروں یا کہ منجملہ شروط مندرجہ قبولیت کوئی یک شرط کے برخلاف عمل میں لاوں تو اختیار کورٹ افوارڈس کا رہیگا کہ میرے اجارہ پتہ کو رد کریں اسواسطے یہ یک کلمہ بطریق قبولیت اجارہ داری کے لکھ دیا کہ وقت حاجت کے سند ہوے تحریر فی التاریخ .

تفصیل

قسط بندی

No. 19.

• FINAL PROCEEDING OF SETTLEMENT OFFICER.

- 1st. Cause and origin of settlement and statement of the right of Government in the estate.
- 2nd. Settlement Officer's opinion on the subjects numbered 4, 5, 6, 7, 11, and 12 in the ameen's rūiddad, arranged in conformity thereto.
- 3rd. Description of the proceedings held for the resumption of lākhirāj holdings.
- 4th. Mention who is entitled to settlement, and on what grounds his title rests.
- 5th. Mention of the sarājāmī and mālikāna allowed, and on what grounds the amount was fixed.
- 6th. Mention whether petition was preferred for settlement, if not, what measures were pursued to obtain the attendance of those entitled.
- 7th. Other matters deserving record.

No. 20.

Abstract of Information relative to the assessment of Village

Pergunnah

District _____

[illegible]

Particulars of rent-free lands from column 5, not liable to assessment.

Names of holders.	Description of tenures.					Remarks.
	Devatna.	Brahmatna.	Piratra.	&c.	&c.	
						State the Regulation under which the tenure is released.

Quantity and description of different kinds of soil recog- nized in the neighbourhood by marked distinctions.	15. Rate per bighá.	16. Acres.	17. Rent.
First sort denominated			
Second sort denominated			
Third sort denominated			
Fourth sort denominated			
Fifth sort denominated			
Sixth sort denominated			
Seventh sort denominated... ..			
Total			
Sewage collections.			
Jalkar _____	Phalkar _____	Bankár _____	&c. _____
Total Rupees			

REGULATION II. OF 1819.

A REGULATION for modifying the Provisions contained in the existing Regulations regarding the Resumption of the Revenue of Lands held free of Assessment under Illegal or Invalid Tenures, and for defining the Right of Government to the Revenue of Lands not included within the Limits of Estates for which a Settlement has been made: PASSED by the Governor-General in Council on the 12th February 1819.

I. THE rules contained in Regulations XIX. and XXXVII. 1793, relative to the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and the corresponding

Preamble. provisions enacted in subsequent years, having been found inadequate to secure the just rights of Government, have from time to time been partially repealed or modified. Those rules, however, are still in force within several of the districts subordinate to this Presidency, and the Regulations by which they have in other districts been superseded, appear to be in several respects defective. It further appears to be necessary, in order to obviate all misapprehension on the part of the public officers, or of individuals, to declare generally the right of Government to assess all lands which, at the period of the decennial settlement, were not included within the limit of an estate for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the above period, nor lands held free of assessment under a valid and legal title; and at the same time formally to renounce all claim on the part of Government to additional revenue from lands which were included within the limits of estates for which a permanent settlement has been concluded, at the period when such settlement was so concluded, whether on the plea of error or fraud, or on any pretext whatever, saving, of course, mehals expressly excluded from the operation of the settlement. With the view, therefore, of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government may be secured without infringement of the just rights of individuals, the following rules have been enacted, to be in force from the date of their promulgation throughout the provinces immediately subordinate to the presidency of Fort William.

II. *First.* Regulation VIII. of 1811; Regulation V. of 1813; and Regulations XI. and XXIII. of 1817, are hereby rescinded.

Second. Sections xii, xiii, xiv, xvi, and xix, Regulation XIX. 1793; Sections vii, viii, ix, xi, and xiv, Regulation XXXVII. 1793; Sections xii, xiii, xiv, xvi, and xix, Regulation XLI. 1795; Sections vii, viii, ix, xi, and xiv, Regulation XLII. 1795; Sections vii, viii, ix, xi, and xiv, Regulation XXXI. 1803; Sections vii, viii, ix, xi, and xiv, Regulation XXXVI. 1803, are likewise hereby declared to be rescinded.

III. *First.* It is hereby declared and enacted that all lands which, at the period of the decennial settlement, were not included within the limits of any pergunnah, mouzah, or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature subsisted in Regulations XIX. and XXXVII. 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled mehals, and the revenue assessed on all such lands, whether exceeding one hundred beegahs or otherwise, shall belong to Government; provided, however, that nothing in the above rule shall be construed to affect the rights reserved to zemindars, talookdars, and other proprietors of estates, with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and talooks, and of which the extent may not exceed one hundred beegahs if in Bengal, Behar, or Orissa, and fifty beegahs if within the province of Benares.

Proviso.

Lands not included in the decennial settlement, &c., liable to assessment, excepting lands held free of assessment under a valid and legal title.

Second. The foregoing principles shall be deemed applicable not only to tracts of land, such as are described to have been brought into cultivation in the Sunderbuns, but to all churs and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers, or the gradual accession of soil on their banks.

Third. The same principle shall likewise be deemed applicable to all lands which, though included at the period of the permanent settlement within the limits of talooks held by individuals under special pottahs from the Collector, such as the puttetabady and jungulboory talooks in the districts of the Twenty-four Pergunnahs and Jessore, may not have been permanently assessed at the above-mentioned period; provided, however, that in respect to such lands, if in the possession of the original pottah-holder, or his legal representative, the conditions of the pottah in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.

Proviso.

land included within the limits specified in that instrument shall be strictly maintained.

IV. The several rules prescribed in Regulations XIX. and XXXVII. of 1793; and Regulations XLI. and XLII. of 1795; Regulations XXXI. and XXXVI. of 1803; Regulations VIII. and XII. of 1805, for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under mokurrery or other tenures limiting the demand of Government; provided, however, that nothing in this Section shall be construed to affect the rules contained in Regulation VIII. 1793, relative to the assessment of lands held under valid grants, or leases, of the above nature, nor to alter the provisions contained in Regulation I. 1815, by which tenures of that description are declared liable to assessment on the death of the grantee.

Proviso.

Application of certain provisions of existing Regulations to grants for holding lands under mokurrery or certain other tenures.

V. First.* Whenever a Collector of Revenue, or other officer exercising the powers of Collector, shall have reason to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate jumma, or as being liable to assessment on the principles stated in Section iii. of this Regulation, he shall report the circumstances to the Board of Revenue, or other authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for inquiry, shall direct the Collector or other officer aforesaid to enter on an investigation of the case in the manner hereafter mentioned.

Second. The Collector, on receiving the authority of the Board of Revenue, shall call the party before him by a notice, stating the demand of Government on the lands, and requiring him to attend either in person or by vakeel, within the period of one month, and to produce all sunnuds, or other writings, in virtue of which he may possess the lands, or under which they may have been, or may be claimed to be held free of assessment, or at a fixed jumma.

Third. If the persons whose lands it is proposed to assess have an accredited agent at the sudder station, with general powers to act for his principal, the notice to be issued under the preceding Clause shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a chupprassy, or peon of the Collector.

Fourth. If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the sudder station of the description above-mentioned, or if such agent shall decline receiving the notice for communication to his consti-

* Vide Sec. v. Reg. IX. 1825, and Sec. iv. Reg. III. 1828, pages 107, 184.

tuent, and the defendant be resident within the Collectorship, it shall be served on him through the nazir of the Collector by a single chupprassy, or peon, who shall require the acknowledgment of the party to be endorsed upon it, or if he

Notice how to be served if the party reside in another jurisdiction. be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence. If the party be resident within

the jurisdiction of any other Collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the Collector of the district in which the party may reside, to be served in the manner above directed. If the party be neither resident within the Collectorship in which the lands in question may be situated, nor in any other Collectorship, the notice shall be served upon his agent or representative in charge of the lands.

Fifth. Provided always, that if any party or his agent in charge of his land,

If an acknowledgment be refused, the tender to be considered as sufficient notice. on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice, to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands, or in the nearest village.

Sixth. The Collector shall, in the notice summoning the party, warn him, that What to be contained in the notice. if he withhold any writings of the nature specified in the second Clause of this Section, within the period prescribed, they will not afterwards be received, unless he shall shew good and sufficient cause for not producing them, and shall assign such cause on his appearing before him.

VI. First.* If the holder of such lands to whom a notice may have been issued,

If notice cannot be served, a proclamation to be issued. as directed in the preceding Section, shall abscond, or if not, after diligent search, to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the Collector, or other officer exercising the power of Collector, on receiving the nazir's return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his catcherry. The proclamation shall be written in the Persian and Bengal languages, in the provinces of Bengal and Orissa (including Cuttack); in the Persian language and character, and in the Hindoostanee language and Nagree character, in Behar, Benares, and in the Ceded and Conquered Provinces; and it shall contain a copy of the former notice, and a further notification to the party, that if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the Collector will proceed, without further notice, to hold the inquiry *ex-parte*. The Collector, or other officer exercising the power of Collector, shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable dispatch, on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of the lands proposed to be assessed.

Second. The nazir shall return the order with an endorsement, stating at what

Nazir's return how to be made. If the party shall not appear, or shall refuse to answer, the case to be investigated. times and places the proclamation may have been fixed up. The return of the nazir shall be filed with the Collector's proceedings in the case. If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the

time therein limited, or if, having appeared, he shall refuse to give answer, the Collector shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered, and entered into proof.

VII. In cases of land supposed to be liable to assessment under the provisions

What inquiry to be made. of Section iii. of this Regulation, the Collector, or other officer exercising the powers of Collector, shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement; and in cases of alluvion land, into the period of its formation.

VIII.* When an inquiry in regard to land of the nature of that described in the foregoing Section shall have been authorized, it shall be competent to the Collector, with the sanction of the Board, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.

IX. It shall likewise be competent to the Collector, in all cases of inquiry held under the provisions of this Regulation, to summon the putwarry, gomastah, or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept, and to require him to produce all accounts relating to such lands or estate, and to examine him on oath to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in Section xxii. Regulation XII. of 1817.

X.* It shall be further competent to the Collector in such cases, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board, to require the person claiming to be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate, within a reasonable period, not being less than one week.

XI.* *First.* Whenever the Collector, or person exercising the powers of Collector, shall require the attendance of any proprietor or farmer, or of any putwarry or gomastah or other officer, for the purpose stated in the above Section, he is to serve such proprietor or other person as aforesaid with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.

Second. Provided, further, that the rules contained in Section iii. Regulation XIV. 1793, regarding the mode of serving process for the recovery of arrears of revenue, shall be held applicable to processes issued by a Collector, or other officer exercising the powers of a Collector, under the provisions contained in Sections ix. and x. of this Regulation; excepting always so much of the said rules as prescribes that the peon serving the summons shall be paid by the party in whose name it is issued.

XII. If any putwarry, gomastah, or other person by whom the accounts of lands are kept, and who may be summoned by a Collector or Commissioner, under the provisions contained in Sections ix. and xi. of this Regulation, shall neglect or omit to produce his original accounts on the requisition of the Collector or Commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath before the Collector or Commissioner, when summoned and examined as aforesaid, or shall alter, fabricate, falsify or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong, shall be and be held liable to the pains and penalties specified in Sections xxiii, xxvi, and xxvii. of Regulation XII. 1817, according as the provisions of one or other of those Sections may be applicable to the offence committed by him.

XIII.* *First.* If the holder of any lands, in regard to which the Collector shall have been authorized by the Board of Revenue, or other authority exercising the powers of that Board, to institute the inquiry described by Section vii. of this Regulation, shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the Collector's requisition, the Board of Revenue, or other authority exercising the powers of that

* Vide Sec. v. Reg. IX. 1825, page 167.

the party, if in attendance, may wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a Persian roobakarry, delivering a copy thereof to the party, on his requisition to that effect.

Second. The final roobakarries, which the Collectors and the Boards are by the Final roobakarries what * provisions of this Section directed to record, shall contain to contain.

a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken, and the title of every exhibit read.

Third. If the Board of Revenue, or other authority aforesaid, pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.

Fourth. In the event of the Board's declaring the lands liable to assessment, the Collector shall inform the party or his vakeel of the decision of the Board, and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.

XXII.* *First.* If the party shall, within a fortnight of his receiving intimation of the Board's decision, tender to the Collector responsible security for the payment, from that date, of the jumma which may eventually be fixed on the land, with interest at the rate of twelve per cent., and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the Collector shall leave the party in possession as before, reporting the circumstance for the information of the Board; provided, however, that in such cases the party shall produce all his accounts of collections for the information of the Collector, in estimating the amount of the security to be required.

Second. If the party be willing to give security for a portion only of the jumma eventually assessable on the land, it shall be competent to him to do so on the conditions above specified. In this case the Collector shall, under the orders of the Board, either hold the lands khas or farm them for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.

Third. It shall be competent to the Court to direct the Collector to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the Collector, subject to the directions of the Board, to fix the amount for which the surety is to be held bound.

Fourth. The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if at the expiration of one year from the date on which the party may receive intimation of the Board's decision, the suit shall still be pending, it shall be competent to the Collector to require additional security for the same amount.

Fifth. In mocreries the parties giving security, and intending to sue, shall continue to pay the mocrerry jumma, and will be required to give security for the remaining revenue which may be eventually demandable from them.

Sixth. In what case the Collectors authorized to proceed to a final assessment.

XXIII.† If the party do not give security, or, having given security, neglect to sue, the Collector shall proceed to the final assessment of the land.

* Vide Sec. v. and viii Reg. IX. 1825. and Sec. x. Reg. III. 1823, pages 107, 160, 187.

† Vide Sec. x. Reg. III. 1823, pages 187.

XXIV.* First. Persons whose lands may be assessed, either on failure to give security, or to institute a suit within the prescribed time, shall nevertheless be entitled to sue any time, within one year from the date of their being informed of the Board's decision; but after the above period shall have elapsed, the decision of the Board shall be final and conclusive; provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.

Second. Provided also, that in cases in which the Board of Revenue, or other authority exercising the powers of that Board, may have directed the resumption of lands held free of assessment under the powers vested in them by Regulation VIII. 1811, Regulation V. 1813, and Regulations XI and XXIII. 1817, if the parties whose lands have been assessed shall be able to show good and sufficient cause for not having instituted a suit to try the merits of the Board's decision, within the period prescribed by those Regulations, they shall in like manner be subject only to such limitation in respect to time as is prescribed generally in regard to private claims.

XXV.† If the net annual produce of the land proposed to be assessed shall, after deducting five per cent. for charges of management, and one-eleventh of the remainder as the allowance for malikana, together with the amount of any revenue for which the party may already be liable (as in the case of lands held under a moccurey tenure), shall not exceed the sum of rupees five hundred, the suit to be instituted under the provisions of the foregoing Section shall be, in the first instance, heard and determined in the Zillah Court within the jurisdiction of which the lands in question may be situated. If the net annual produce, calculated as above, shall exceed the aforesaid sum of rupees five hundred, the suit shall, in the first instance, be heard and determined in the Provincial Court.

XXVI.‡ First. In cases instituted in the Zillah Court (which shall be determined by the Judge and shall not be referable to the register) a special appeal only shall lie to the Provincial Court: and in like manner in cases decided in the first instance by the Provincial Court, an appeal shall be received by the Court of Sudder Dewanny Adawlut, on special grounds only: provided, however, that the above restrictions shall not apply to cases in which the amount in contest shall exceed the sum of five thousand pounds sterling, in which a regular appeal shall lie to the Court of Sudder Dewanny Adawlut.

Second. Provided also, that the provisions contained in Section ii. Regulation Sec. ii. Reg. XXVI. XXVI. of 1814 shall not be applicable to such appeals, but 1814 not applicable to the Sudder Dewanny Adawlut, or Provincial Court, in all such appeals. cases of special being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final roobakarry filed in the case by the Board of Revenue, or other authority exercising the powers of that Board; and if on a consideration of those documents, the decision of the Court should appear unjust or erroneous, or doubtful, or its proceedings in the case manifestly irregular or imperfect; or if, from the nature of the cause, as stated in the decree or otherwise it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit a special appeal.

* Vide Sec. x. Reg. III. 1828, page 187.

† See Acts XXV. 1837, and IX. 1844. By Regulation V. 1831, Sudder Ameen were declared competent to try and decide any original suits, referred to them by the Zillah Judge to whom they were subordinate, instituted for money, personal property, or for the property or possession of land, or of other real property the amount or value of which, calculated by the then existing Stamp Regulation, did not exceed Rupees 1000. At the same time Principal sudder amins were appointed, with powers of the same nature but over property amounting to the value of Rupees 5000 and subsequently by Act XXV. of 1837, this power was extended to property of any value. Act IX. 1844 enacted that all suits within the competency of a Principal Sudder Ameen or Sudder Ameen should ordinarily be instituted in the Courts of those officers respectively; but the Zillah Judge, if he saw sufficient reason for so doing, might withdraw them to try himself, or refer them for trial to any other competent Court, subordinate to his authority.

‡ Vide Sec. 6 Regulation XIV. 1825. The Provincial Courts therein spoken of were by Regulation II. of 1833, abolished; their functions as a Court of primary jurisdiction being transferred to the Zillah Courts, and their Appellate powers to the Sudder Dewanny.

XXVII. In cases in which parties whose lands the revenue authorities may adjudge liable to assessment shall bring a suit to contest the decision, in the manner prescribed in Section xxii. of this Regulation, the petition of plaint shall be received on stamped paper of the value of one rupee; provided, however, that if the suit be decided in favor of Government, the plaintiff shall be answerable for the amount of the stamp-duty, which he would have had to pay under the ordinary rules regarding civil suits, in lieu of the institution-fee, unless the Court shall decide that there was a fair ground for contesting the decision of the Board.

XXVIII.* First. On the production of any written document purporting to be a firman of any King of Delhi, or to be a sunnud, perwanah, or other grant of any vizier, or of any nawaub, rajah, or other potentate or person formerly exercising authority in any part of the provinces and territories now subject to the British Government, it shall be the duty of the revenue and judicial authorities before whom such document may be produced, to ascertain the validity and authenticity of it by reference to such offices and records, and by the examination of such living witnesses, as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal, or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.

Second. Provided also, that no document of the above description, which may be produced to any Court or Adawlut, shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations XIX. and XXXVII. 1793; XLI. and XLII. 1795; VIII. 1800; XXXI. and XXXVI. 1803; and VII. 1808; or unless due cause be shown for the non-registry.

XXIX. Whenever a Collector or other officer exercising the powers of collector, shall have reason to suspect to validity of the original tenure under which any land subsequently commuted for a money pension, of the description noticed in Regulation XXIV. 1803, and Regulation VI. 1817, was held, it shall be competent to him, with the previous sanction of the Board of Revenue, or other authority exercising the powers of that Board, to proceed in the investigation of the tenure under which such land was held, in the same manner as Collectors are authorized by this Regulation to proceed in regard to the tenure of lands now held free of assessment; and if the Board shall be of opinion that the tenure was invalid, it shall be competent to them to resume the money pension granted in consideration thereof, subject to an appeal to the Courts of Judicature, in the manner prescribed by this Regulation, in cases in which the Board may direct the assessment of land held free of assessment: provided, however, that it shall not be competent to the revenue authorities to resume any money pension of the above description, of which the incumbent may have been in the enjoyment, under orders of the Governor-General in Council, for a period of twelve years or more.

XXX.† First.‡ All suits preferred in a Court of Judicature by proprietors, farmers, or talookdars to the revenue of any land held free of assessment, as well as all suits so preferred by individuals claiming to hold lands exempt from revenue, shall, immediately on their institution, be referred for investigation to the Collector, or other officer exercising the powers of Collector: provided also, that proprietors, farmers, or talookdars, who may deem themselves entitled to the revenue of any land held free of assessment in their respective estates, talooks, or farms, or individuals claiming as aforesaid to hold lands free of assessment, shall be at liberty to prefer their claims in the first instance to the Collector; provided, further, that the party

* Vide Sec. iii. Reg. XIV. 1825.

† Vide Section v. Regulation IX. 1825, page 107, and Section 1 of the Bengal Council's Act VII. 1862.

‡ Suits instituted in the Civil Courts under the provisions of this Section are now governed by the Civil Procedure Code, Act VIII. 1859.

so preferring his claim directly to the Collector shall, in his petition to the Collector, state the particulars of his claim, and the grounds on which it is founded, in like manner as if the suit were instituted in a Court of Judicature: and the petition shall be written on stamped paper of the value prescribed for petitions of plaint in suits instituted in those Courts.

Second. On receiving a petition of the above nature from any proprietor, farmer, or talookdar, claiming the revenue of any land held free of assessment in their respective estates, or on a reference being, in such case, made from a Court of Judicature, the Collector shall serve on the defendant a written notice, containing a short statement of the demand, and requiring the defendant to attend in person, or by vakeel, within the period of one month, and to produce all sunnuds or other documents in virtue of which he may possess the lands, and under which they may have been, or may be, claimed to be held free of assessment.

Third. When the defendant shall appear and deliver up his title-deeds, the Collector, after allowing the claimant to inspect and examine them, shall call upon him to deliver, within the period of seven days, a full statement of the grounds on which, with reference to the documents, he may consider the tenure of the defendant invalid, and the lands liable to assessment, with all documents on which his claim to the revenue of them may be founded.

Fourth. When the claimant shall have delivered in the said statement and documents, the Collector shall proceed to investigate the case, and to record his final judgment on it, in the same manner, and with the same powers as in cases in which he may himself propose to assess lands on account of Government.

Fifth. The parties shall respectively be subject to the same rules in regard to the use of stamped paper, on summoning witnesses and filing exhibits, as are prescribed for suits instituted in the Zillah or City Courts.

Sixth. In cases in which Government may not be itself a party, and in which the suit may have been originally instituted in a Court of Judicature, the Collector, on closing his proceedings, shall transmit them, with all documents therein referred to, to the Court by which the reference may have been made, recording his sentiments on the case as prescribed in Sections xx. and xxi. of this Regulation, and the Court shall proceed to decide the case, after calling for such further evidence as may appear necessary; provided, however, that no sunnuds, accounts, or other documentary evidence of any kind, which may not have been produced before the Collector, and for not producing which the party may not have assigned a sufficient cause, shall be received by the Court.

Seventh. In cases of the above description, which may have been preferred directly to the Collector, if either of the parties shall be dissatisfied with the decision passed by that officer, he shall be at liberty to appeal to the Zillah or City Court by a petition written on stamped paper of the value of one rupee; provided, however, that no such appeal shall be received unless preferred within the period of three months from the date of the Collector's decision, or on good and sufficient cause being shown for a further delay.

Eighth. The Judge, on receiving such petition, shall require the Collector to transmit all the proceedings held by him in the case with the documents therein referred to, and shall proceed to investigate and decide on the case in the like manner as if it had been originally instituted in the Court, and referred by it to the Collector.

Ninth. In all cases in which Government may be the defendant, or in which the revenue of the lands claimed may form part of an estate liable to a variable assessment, the Collector shall, on closing his proceedings, submit them to the Board of Revenue, or other authority exercising the powers of that Board,

for their decision. In such cases, if the suit shall have been referred by a Court of Judicature, the Collector shall postpone the transmission of his return to the reference, until he shall receive the orders of the Board or other authority aforesaid, and if the claim shall have been originally preferred to the Collector, the

Decision of the Board Courts of Judicature shall not interfere until the decision how to be communicated.

of the Board shall have been passed; provided, however, that in all such cases the decision of the Board shall be recorded in a Persian roobakarry, and transmitted to the Collector in that form for the information of the parties; provided, further, that in cases in which the claim may have been originally preferred to the Collector, the party, if dissatisfied with the decision of the Board,

Parties dissatisfied, at liberty to appeal to Civil Courts, within specific periods.

shall be at liberty to appeal to the Court by which the case may be cognizable, any time within the period of three months from the date on which the Board's decision may have been communicated to such party or to his vakeel, or, in their absence, from the date on which the roobakarry

containing the Board's decision may have been brought on the Collector's record of the case.

Tenth. If the party shall not apply to the Court within the said period, and shall fail to show good and sufficient cause for the delay, the decision of the Revenue Authorities shall be final, and shall, on application of the party in whose favor it may have been passed, be carried into effect by the Courts of Judicature, in the manner in which the decrees of Courts are

And to be executed by the Courts.

executed.

Eleventh. Provided also, that in cases in which the right of resuming the revenue of lands held free of assessment, or of recovering possession under such a tenure of lands which may have been subjected to assessment, shall have been adjudged by the Revenue Authorities, the Court shall, in like manner, carry the decision of the said authorities into immediate effect, notwithstanding the admission of an appeal therefrom, unless the party so applying shall give good and sufficient security for the payment of the mesne profits accruing from the lands under dispute.

*Twelfth.** In cases of the above description, which may be decided by the Courts of Judicature, in appeal from the decision of the Revenue Authorities, whether the claim be preferred in the first instance to the Court, or Collector, a special appeal only shall be admitted by the superior Court, excepting always cases which, from their amount, may be appealable to the King in Council; provided also, that the rules contained in Section xxvi. of this Regulation shall be applied to all appeals of the above nature.

XXXI. *First.* Nothing in the present Regulation shall be considered to affect the right of the proprietors of estates, for which a permanent settlement has been concluded, to the full benefit of all waste lands included within the ascertained boundaries of such estates respectively, at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases, whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the Revenue Authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the zemindars and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the Revenue Authorities shall violate or encroach on the rights secured to them by the permanent settlement.

* Appeals under this Section would now be governed by the provisions of Act VIII. 1859.

Second. It is further hereby declared and enacted, that all claims by the Revenue Authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving of course the case of lands expressly excluded from the operation of the settlement, such as lākhirāj and thannadarry lands, shall be, and be considered wholly illegal and invalid.

REGULATION XIV. OF 1825.

A REGULATION to declare the extent of the Authority possessed by the Revenue Authorities, subordinate to the Governor General in Council, in the Confirmation of Lākhirāj Tenures; to define the Principles to be followed in determining on the Force and Validity of Grants made by Persons exercising Authority in different quarters previously to the Acquisition of the Country by the British Government; and to provide for the due application of the General Laws and Regulations respecting Lands held Free of Assessment, to the Territory ceded by Govind Rao to the British Government, and annexed to the Zillah of Bundelcund, under the Provisions of Regulation II. 1818: PASSED by the Governor General in Council on the 14th July 1825.

I. WHEREAS doubts have arisen as to the extent of the authority possessed by the Revenue Authorities subordinate to the Governor-General in Council, in regard to the confirmation of lākhirāj tenures, which it is expedient to remove; and it is also desirable further to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters, previously to the acquisition of the country by the British Government; and it is necessary to make provision for the due application of the general rules in force relative to lākhirāj tenures, to the territory ceded by Govind Rao to the British Government, and annexed to the zillah of Bundelcund under the provisions of Regulation II. 1818; and whereas it is enacted by Clause 1, Section xxvi. Regulation II. 1819, that in suits instituted in the Zillah Courts to contest the decisions passed by the Revenue Boards, under the provisions of that Regulation, a special appeal only shall lie in the Provincial Courts, and that in like manner in cases decided in the first instance by a Provincial Court, excepting cases ultimately appealable to the King in Council, an appeal shall be received by the Sudder Dewanny Adawlut on special grounds only; and it appears to be expedient that the above restriction should not apply to cases wherein the decision of the Court may be opposed to the judgment of the Board of Revenue, or other authority exercising the powers of that Board, but that such cases should be opened to a regular appeal, the following rules have been enacted, in addition to, and in modification of, the provisions of Regulations XIX. and XXXVII. 1793, Regulations XLI. and XLII. 1795, Regulations XXXI. and XXXVI. 1803, of such parts of Regulations VIII. and XII. 1805 as refer to lākhirāj lands, and of Regulation II. 1819; to be in force from the date of their promulgation, throughout the provinces immediately subject to the presidency of Fort William.

II. It is hereby declared and enacted, that the power of granting lākhirāj tenures, *viz.*, tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order, or decision, granting or confirming any tenure as aforesaid, within any of the territories subordinate to this presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued, or passed, by or under the immediate directions of the Governor General in Council; or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards acting in a judicial capacity, under the rules of Regulation VIII. 1811, whilst that Regulation (rescinded by Section ii. of Regulation II. 1819) was in force; and subsequently

under the rules of Regulation II. 1819, or any other Regulation expressly empowering the Revenue Boards, after full investigation of claims to exemption from assessment under the general rules applicable to *lākhirāj* tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry. Provided also, that no resolution or order passed by the Lieutenant-Governor, and the Board of Commissioners, in the Ceded and Conquered Provinces, the Board of Revenue, or other authority exercising the powers of that Board, whereby the right of Government to assess any *lākhirāj* lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the revenue authorities from proceeding for the recovery of public dues under the provisions of Regulation II. 1819, or any other rules in force relative to the resumption of *lākhirāj* tenures held under invalid grants.

III. *First.* The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the provinces subordinate to this presidency, previously to the acquisition of the country by the British Government.

Second. *Lākhirāj* tenures, of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods undermentioned, shall be, and be considered to be valid, without evidence to any formal grant or confirmation of the same; and shall be continued to heirs in cases in which it may be clearly shown, from the nature and deno-

mination of the tenure, that it is hereditary according to the ancient usage of the country: *viz.*—the 12th August 1765, if the tenure be in Bengal, Behar, or Orissa (excepting Cuttack);—the 14th October 1791, if the tenure be in Cuttack, including Puttaspore or its dependencies;—the 1st July 1775, if the tenure be in the province of Benares;—the 10th November 1789, if the tenure be in the provinces ceded by the Nawaub Vizier in November 1801;—the 1st January 1792, if in any of the provinces ceded by Dowlat Rao Scindia and the Peishwah, under the treaties of the 16th and 30th December 1800;—the 1st November 1805, if in the pergunnah of Khandah, or other territory ceded by Nana Gobind Rao on the 1st November 1817. Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a *jāghirdar* or other person, who at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure. In all such cases, the parcels of the land so held shall follow the condition of the principal tenure; and if that be resumable, will consequently be liable, to resumption.

Third. The proof of possession in the cases provided for by the preceding Clause, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover *lākhirāj* tenure; the general principle being, that the ruling power is entitled to a certain proportion of the produce of every *bigha* of land, excepting so far as it shall have transferred, relinquished, or compounded its right thereto; and all parties claiming the benefit of such exemptions being bound to establish their respective claims and titles.

Fourth. Provided also, that although one or more successions to any tenure as aforesaid may have taken place before the periods specified in the second Clause, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature; or unless the right of inheritance therein shall have been admitted by the Governor-General in Council, on a reference made to Government according to the rules in force applicable to such cases.

Fifth. The Courts of Judicature and revenue authorities shall not recognize any potentate, or person as having been vested with the supreme power within any part of the provinces subordinate to this presidency, save and except the kings of Delhi, the subadars of Bengal, Behar, and Orissa, and the several authorities specified in

Regulation XLII. 1795, Regulation XXXVI. 1803, and Regulations VIII. and XII. 1805; and with respect to the territory ceded by Nana Govind Rao, save and except Rajah Chuttersaul, and his predecessors, previously to the Mahratta conquest of that territory in the year 1802 of the Sumbut era (corresponding with 1730 of the Christian era), and subsequently thereto His Highness the Peishwah, who then obtained the supreme authority in the territory referred to. If in any case grants shall be produced, purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court, or other authority before whom the case may be depending, shall, before passing any decision thereupon, refer the point to the Governor General in Council, and be guided by his determination.

Conditions requisite to establish validity of grants made by such potentates, &c.

Sixth. To the validity of grants made or confirmed by the kings of Delhi, or by any of the rulers aforesaid, it is and shall be held to be necessary :—

1st. That they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate.

2nd. That the grantee actually and *bonâ fide* obtained possession of the land granted within the said period.

3rd. That the grant was not subsequently resumed by the officers or the orders of the Government for the time being, previously to the acquisition of the country by the British Government, or if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the Governor General in Council.

Seventh. The following shall be held, for the purposes specified in this Regulation, to be the periods at which the several provinces subordinate to this presidency were acquired by the British Government, *viz.* for Bengal, Behar, and Orissa (excepting Cuttack), the 12th August 1765; for Benares, the 1st July 1775; for the provinces ceded by the Nawaub Vizier, the 1st January 1801; for the provinces ceded by Dowlut

Rao Scindia and the Peishwah, the 1st January 1803; for the province of Cuttack, Puttaspore, and its dependencies, the 14th October 1803; for the pergunnah Khandah, and the other territory ceded by Nana Govind Rao, the 1st November 1817.

Conditions necessary to the validity of grants not made or confirmed by the supreme power.

Eighth. To the validity of grants not made or confirmed by the supreme power (excepting tenures of long possession, described in the second Clause of this Section), it shall be held to be necessary :—

1st. That they were made or confirmed by some authority which the Governor-General in Council shall have expressly declared competent to make or confirm the same.

2nd. That the grantee actually and *bonâ fide* obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.

Ninth. Provided also, that in cases in which any *lâkhirâj* tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question whether the officer by whom or by whose order the resumption may have been made was legally competent to do so, shall in all cases wherein it may be necessary to determine this question, rest with the Governor General in Council. Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the supreme power, or the legal effect of resumption by any such officer, which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature, or other authorities making the investigation, to the Governor General in Council for determination, unless the powers and competence of the officer in question shall have been previously determined by Government.

IV. Nothing in this Regulation shall be construed to affect the provisions contained in Regulation XIX. 1793, Regulation XLI. 1795, Regulation XXXI. 1803, and Regulation XII. 1805, relative to lands not exceeding ten bighas, of which the produce is *bona fide* appropriated to religious or charitable uses.

V. Decisions passed by any Court of Judicature before the promulgation of this Regulation, in opposition to the principles therein declared, without due regard to the restricted powers of the revenue authorities as defined in this Regulation, shall be open to revision in the Court wherein the case may have been decided, as well as to a regular or special appeal (according as the case may have been already decided on appeal or otherwise), notwithstanding the lapse of time since the decision was passed; provided that the petition for a review or appeal be presented to the proper Court, in the manner prescribed by the Regulations, within one year after the promulgation of this Regulation; or if presented at a latter period, that good and sufficient reason be assigned for the delay. Provided further, that if the decision shall have been passed by a Provincial Court, or by the Court of Sudder Dewanny Adawlut, it shall be competent to a majority of the Judges of such Court to admit the petition for a review, and to try and decide the case anew under the provisions of this Regulation, whether they may have joined in passing the former decision or not; the restriction in Section iii. Regulation II. 1825 being hereby, as a special exception, declared inapplicable to such cases.

Proviso. VI.* In modification of the rules contained in Section xxvi. Regulation II. Modification of Section 1819, it is hereby enacted, that in cases wherein a Zillah xxvi. Reg. II. 1819. Court shall annul or alter a judgment passed by the Board of Revenue, or other authority exercising the powers of that Board, under the provisions of the above-mentioned Regulation, a regular appeal shall lie to the Provincial Court. In like manner, in cases tried in the first instance by a Provincial Court, if the decision of that Court shall reverse or alter the judgment of the Board of Revenue or other authority aforesaid, a regular appeal shall lie to the Court of Sudder Dewanny Adawlut, although the amount in contest shall be less than five thousand pounds sterling. The provisions of the above-mentioned Section shall however still be applicable to cases in which the Zillah or Provincial Courts may maintain the decisions of the Revenue Boards, or other authorities exercising the powers of these Boards.

REGULATION III. OF 1828.

A REGULATION for the Appointment of Special Commissioners for the more speedy Hearing and Determination of Appeals from the Decisions of the Revenue Authorities in regard to Lands or Rents occupied or collected by Individuals, without payment of the Revenue demandable by Government, under the general Law of the Country, and for otherwise more effectually securing the Realization of the Public Dues: PASSED by the Governor-General in Council on the 12th June 1828.

I. By the provisions of Regulation II. 1819, and other Regulations subsequently enacted, Collectors and other local Revenue Officers throughout the provinces subordinate to this presidency have been empowered, with the sanction of the Boards of Revenue, to institute inquiries with a view to the resumption and assessment of all lands held free of rent, or at an inadequate rent, under invalid tenures; Commissioners have likewise from time to time been appointed under the orders of Government to maintain and enforce the public rights in different districts, in which extensive tracts of country, unowned and unoccupied at the time of the perpetual settlement, are now liable to assessment, or, being still waste, belong to the State. It was at the same time provided in the Regulation above adverted to, that in all cases in which the revenue officers might declare the lands of any individual liable to assessment, the party might contest the decision by suit in one of the ordinary Courts of Justice, such provision having been made with the intention that the decisions of the Collectors

and the Boards should be held and considered to be judicial awards, and that the suits preferred to the ordinary Courts, being of the nature of appeals, should be speedily disposed of. It has, however, appeared that, partly from the number of the cases in question, partly from the practice of the Courts in treating the appeals made to them as original suits, and partly from other causes, little or no progress has been made towards the settlement of the matter, and heavy arrears of such cases have accumulated in several of the Courts and Boards of Revenue; that the existing laws have not been adequate to secure for the revenue authorities the information required, and that consequently, while, on the one hand, a large amount of revenue continues to be usurped without any just pretence, and the improvement of the country is hindered by frivolous and litigious claims, on the other hand, the owners of valid tenures are disquieted and disturbed. To remedy the aforesaid evils, it appears to be expedient to appoint special Commissioners competent to determine finally all cases of the nature above described, within such local limits as may from time to time be deemed necessary; to declare the intent and meaning of the existing Regulations in regard to suits preferred to the ordinary Courts relative to such cases; and to provide that all successions to the possession of land or rent, free of assessment, whether by sale, gift, or inheritance, shall be regularly reported to the revenue authorities. It has likewise appeared to be expedient and proper to make provision for the immediate settlement of the limits of the Sunderbuns, as ascertained by careful local inquiry, conducted by the Commissioner specially appointed to the duty, and the surveyors under his authority; and also to declare the intent and meaning of certain parts of the existing Regulations, in regard to which doubts have arisen. The following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the provinces immediately subordinate to the presidency of Fort William.

II. First. It shall be competent to the Governor-General in Council, by an order in Council, to appoint one or more special Commissioners, as may be judged expedient, for the final determination of all cases which have been or may be investigated by Collectors, Deputy Collectors, or other officers exercising in that behalf the powers of Collectors, under the rules of Section v. and the fifteen subsequent Sections of Regulation II. 1819, and of Section v. Regulation IX. 1825, subject to the provisions hereinafter enacted; and the Commissioner or Commissioners so appointed shall similarly determine all suits which may be brought to contest the demand of the revenue officers, on the plea that the annual rent or assessment upon which the demand is founded exceeds what the party is bound to pay, and which may consequently involve the question of a permanent increase or reduction of the public revenue.

Second. The jurisdiction of the special Commissioner or Commissioners appointed as above shall extend to such districts or portions of districts, and for such periods, as the Governor General in Council may direct; and it shall be competent to the Governor General in Council, to fix and appoint the functions to be discharged by each Commissioner, and to assign to him such local jurisdiction as may from time to time appear proper.

Third. Whenever any Commissioner or Commissioners shall be vested by the orders of the Governor General in Council with jurisdiction in any district or other division, notice thereof shall be published by proclamation at the cutcherries of the Judge and Collector of such district, and shall likewise be communicated, through the Court of Sudder Dewanny Adawlut, to the Provincial and Zillah Courts concerned.

Fourth. Whenever any of the said Courts shall be apprized in the manner above specified of the appointment of a Commissioner or Commissioners to exercise the powers specified in this Regulation within any zillah or other local division, the powers heretofore vested in, and exercised by the said Courts in regard to all cases belonging to such local division of the nature declared cognizable by the special Commissioners shall be suspended, and the said Courts shall immediately stay all proceedings in such cases, until they

shall be apprized that the local jurisdiction of the Commissioner or Commissioners has ceased; and further, the said Courts shall forthwith transmit to the Commissioner the records of all cases of the above nature which may be depending before them; provided also, that no appeal shall lie to any of the established Courts of Judicature from any decision which has been or shall be passed by the Board of Revenue, or a Collector, in regard to the revenue of any lands lying within such local division, previously to or pending the appointment of a special Commissioner.

Fifth. In all cases, which have been decided by the Boards of Revenue before the jurisdiction of a Commissioner may have been declared to extend to the district in which they have arisen, and in which the parties would, but for the extension of such jurisdiction, have been entitled to appeal to the ordinary Courts of Justice, under the rules contained in Sections xxii. and xxiv. of Regulation II. 1819, and Section v. Regulation IX. 1825, an appeal shall lie to such special Commissioner, and the cases shall be heard and determined in the same manner as appeals preferred to that authority from the decisions of Collectors under this Regulation.

Sixth. Notice of the appointment of a Commissioner to exercise the powers specified in this Regulation in any district or other local division shall likewise be communicated to the Boards of Revenue, or other Board exercising control over the revenue officers of such district or division, and on the receipt of such communication, the powers vested in the said Boards under the provisions of Regulation II. 1819, and Regulation IX. 1825 (with exception to the powers specified in Section iv. of the last-mentioned Regulation), shall be suspended within the said district or division; and the said Board shall immediately stay all proceedings in cases thereunto belonging which may be depending before them, under the provisions of the above Regulations, as well as in all other cases relating to the said district or division of the nature described in the preamble to this Regulation, and shall forthwith transmit to the Commissioner the records of all such cases.

Seventh. When any suit may be transferred by a Court of Justice or a Board of Revenue to a special Commissioner under the provisions of this Regulation, the Commissioner or Commissioners by whom such suit shall be decided shall determine the amount of remuneration to be assigned to the vakeels who may have been employed by the parties in conducting such suit before the Court or Board from which it may be transferred, and generally how any costs previously incurred shall be borne; all such sums which may have been deposited in such Court or Board on account of vakeels' fees shall be kept in deposit until the case is decided, when the amount awarded to the vakeels by the Commissioners shall be paid to them.

III. Whenever the jurisdiction of a Commissioner shall be declared by the orders of Government to extend to any district or other local division, it shall be competent to the Governor General in Council to invest such Commissioner with any or all of the powers vested by the Regulations in force in the Boards of Revenue.

IV. *First.* When the jurisdiction of a Commissioner shall have been established in any particular district, it shall be competent to the Collector or other local revenue officer of such district to institute the inquiries specified in Regulation II. 1819, and Regulation IX. 1825, in regard to any lands which he may have reason to believe are held free of assessment; or at an inadequate jumma under an invalid tenure, or which being unoccupied he may consider to be public property, without in any case previously applying for the sanction of the Board of Revenue. In all other respects, however, he is to proceed to the investigation of the case in the manner provided for in Regulation II. 1819, and Regulation IX. 1825, accordingly as the one or the other may apply to the case; and having closed his proceedings, he shall record in a Persian roobakarry his judgment as to the liability of the lands to assessment or otherwise, in the manner directed in Section xx. of the first-mentioned Regulation, and such decision shall have the force and effect of a decree, and a copy thereof on plain paper shall as soon as possible be delivered to the party concerned.

Second. If the decision of a Collector shall declare the lands liable to assessment, or shall adjudge them to be the property of Government, it shall not be necessary for him to transmit his proceedings to the Board of Revenue, or to the special Commissioner, but the party against whom such decision is passed shall be at liberty to appeal from the same to the special Commissioner, within two months from the date on which a copy of the decision may have been tendered to him by the Collector; but it shall be competent to the Commissioner to admit an appeal, after the expiration of the above period, on sufficient cause being shown why it was not sooner preferred. Provided also, that petitions of appeal may, at the option of the party, be either presented to the special Commissioner, or delivered to the Collector for transmission to that authority.

Third. It shall and may be lawful for the Collector, whether an appeal be filed or not, immediately to carry into effect his decision by attaching and assessing the land, reporting his proceedings for the information and orders of the Board, or of the Commissioner, if vested with the powers of the Board: provided however, that in cases appealed to the Commissioner, it shall be competent to that authority to stay execution of the Collector's decree, and to cause the attachment of the land to be suspended or withdrawn, on due security being tendered by the appellant for the payment, from the date of the Collector's decision, of the revenue which may ultimately be assessed on the land.

Fourth. If the Collector shall decide against the assessment, he shall report his proceedings, together with the whole record of the case, to the Board of Revenue, who are to take the case into their consideration, and if they shall be of opinion that the grounds assigned by the Collector for considering the lands exempt from assessment are insufficient or invalid, it shall be competent to the Board, within one year from the date on which they may receive the Collector's proceedings, to transfer the case for revision and final orders to the special Commissioner, who shall issue a notice requiring the attendance of the party in whose favor the Collector may have decided; and should such party neglect, after having been duly summoned, to attend and defend the appeal before the Commissioner, it shall be competent to the Commissioner to hear and decide the case *ex-parte*.

Fifth. In all cases decided by a special Commissioner or Commissioners, whether Decisions of special Commissioner, or Commissioners, final, on appeal by individuals from decision of the Collector, or on reference from the Board of Revenue under the above rule, or in cases transferred from any of the ordinary Courts of Judicature, the decision passed by the special Commissioner or Commissioners, who by warrant from the Governor General in Council and the provisions of this Regulation may be competent to pass the same, shall be final, save and except in cases which, if decided by the Court of Sudder Dewanny Adawlut, would be appealable to his Majesty the King in Council: in such cases, a similar appeal will lie from the decision of the special Commissioner or Commissioners, under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court; provided, however, that such decisions shall be immediately executed and enforced, notwithstanding the institution of the appeal: provided also, that it shall be competent to any Commissioner to review any judgment passed by him, on sufficient cause being shown why a new trial should be granted—the rules in the existing Regulations regarding a review of judgment being held applicable to such cases.

Sixth. In all cases in which the judgment of a single special Commissioner shall coincide with the decision passed by a Collector or by a Board of Revenue, or by a Court of Justice, in cases which have been decided by an inferior Court, and after having been appealed to a higher, have been transferred under the provisions of this Regulation to a special Commissioner, the decision of such single Commissioner shall be final, subject to the provisions of the foregoing Clause. But if, on hearing any case of the nature above specified, a single Commissioner shall be of opinion that the last award made in such case ought to be reversed or altered, he shall record

Appeals from decision of Collector for assessment.

Collector may carry his decision into effect, whether an appeal be filed or not. Commissioner may stay execution of Collector's decree in cases appealed.

Procedure if Collector decide against assessment.

Decisions of special Commissioner, or Commissioners, final.

Exception.

Judgment of a single Commissioner concurring with the decision of the Board, &c., final, except as above.

Procedure in case of a disagreement of opinion.

his opinion to that effect, and the case shall then be laid before another special Commissioner appointed under this Regulation, and should he disagree in opinion as to the decision of the case, to a third Commissioner, so that the final award may be made by the concurrent voices of at least two special Commissioners. Provided that it shall be competent to the Governor General in Council, on the occasion of appointing a special Commissioner, to exercise the powers specified in this Regulation within certain local limits, to determine at the same time to what other special Commissioner a reference shall be made by him in cases of difference of opinion.

V. It is hereby declared and enacted, that the provisions of this Regulation are not intended and shall not be construed to extend to cases of the nature specified in the several Clauses of Section xxx. Regulation II. 1819, save and except when such cases may involve the rights of Government to subject to assessment all or any portion of the lands in respect to which the action may be brought. In cases of the above description, in which the Government may be a party, whether instituted

in the first instance before the Collector, or referred to him by the Court, the Collector shall proceed to investigate and decide in the mode prescribed in the preceding Section of this Regulation; the several Clauses of which shall be held to apply to such suits and all other cases falling within the provision of Section xxx Regulation II. 1819, in which the Government is not itself a party, shall be heard and determined under the rules therein enacted, and the subsequent modifications of them declared in Section v. Regulation IX. 1825.

VI. *First.* The special Commissioners appointed under this Regulation, shall be guided by such rules as may be prescribed by the Governor-General in Council in regard to the forms of proceeding, the nature and number of the pleadings, the mode in which they are to be conducted, the paper (stamped or unstamped) to be used, the fees to be levied, and generally, the rules of practice to be followed.

Second. The special Commissioners shall likewise be competent to issue such instructions to the Collectors of the districts over which their jurisdiction extends, in regard to their proceedings relative to cases investigated under the rules of Regulation II. 1819, and Regulation IX. 1825, as may appear requisite for their guidance and conducive to the ends of justice, and, when it may appear necessary or proper, to refer cases back to those officers for further trial.

Third. All processes issued by a Commissioner shall be enforced in the same manner, and under the same penalties for disobedience or resistance, as processes of the ordinary Courts of Justice, and all the powers possessed by those Courts, in regard to contempts, the summoning and examination of witnesses, and the administration of oaths, shall be vested in the Commissioners, whose decision shall, in such matters, be final.

Fourth. The special Commissioners shall be competent to require the Zillah Courts to carry into execution, when necessary, the decisions which they may pass, and the Zillah Courts shall give effect to such decisions in the same manner as they are required to execute the decrees passed by the Provincial Courts, or the Courts of Sudder Dewanny Adawlut.

Fifth. The several rules and provisions contained in the existing Regulations relative to native officers belonging to the Zillah Courts will be applicable to the native officers employed by the special Commissioners, except in cases in which the Commissioners may, with the sanction of Government, otherwise determine.

Sixth. Any person knowingly giving a false deposition, whether on oath or hullufnamah, relative to any suit or matter depending before a Commissioner, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall, on conviction, be liable to the penalties prescribed by the Regulations for that offence. And any person causing or procuring another person to commit the offence of perjury as above described, shall be guilty of

subornation of perjury, and shall be punishable, on conviction, under the provisions of the said Regulations.

Seventh. The Commissioners shall be competent to commit persons guilty of the above offences for trial before the Court of Circuit, and any Magistrate receiving from a Commissioner a roobakarry, directing the commitment of such offenders, shall give effect to the same in like manner as if the commitment were made by himself.

VII. *First.* It shall be the duty of the Courts and of the revenue officers to afford the Commissioners every aid and information that they may require—to serve all processes issued and required to be served by the Commissioners in like manner as if they were issued by themselves, to prepare and transmit to the Commissioners such lists of cases decided or pending before them, as they may see occasion for, and to furnish all papers and documents which the Commissioners may desire to examine.

Second. It shall likewise be competent to the Commissioners to require the Zillah Courts or the Collectors to examine witnesses, either on written interrogatories or otherwise, in regard to any points, the investigation of which it may appear necessary to conduct in that manner, and generally to inquire and report on particular points upon which further information is desirable, in the same manner as the said Courts are required to report in pursuance of precepts issued to them by the Provincial Courts and Court of Sudder Dewanny Adawlut.

Commissioners to furnish periodical statements and reports.

VIII. The special Commissioners shall furnish to Government periodically such statements and reports, as the Governor General in Council may prescribe.

IX. The special Commissioners appointed under this Regulation shall, before entering on the performance of their functions, take and subscribe a solemn oath, according to the following form, and such oath is to be administered by such person or persons as the Governor General in Council may direct.

FORM OF OATH.

"I, A B, appointed a special Commissioner, under the rules of Regulation III. A. D. 1828, solemnly swear, that I will investigate and determine in equity and good conscience, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward, all matters which by the said Regulation, or any other Regulation in force, I may be required to investigate and determine; that I will not receive, directly or indirectly, any present or nuzzur, in money or effects of any kind, from any party whomsoever, on account of any matter to be received, investigated, or determined by me, or which may be depending or have been investigated or determined under the above-mentioned Regulation; that I will not knowingly permit any person or persons under my authority to receive, directly or indirectly, any present or nuzzur, in money or effects of any kind, from any party or person whatsoever, on account of any matter as aforesaid; and that I will not derive, directly or indirectly, any emoluments or advantages from my office, excepting such as the orders of Government do or may authorize me to receive. "So help me God."

Secs. xxii. to xxiv. Reg. II. 1819 modified and extended.

X. *First.* The following rules are hereby enacted in modification and extension of the provisions contained in Sections xxii. xxiii. xxiv., Regulation II. 1819.

Second. All decisions which have been or may be passed by the Boards of Revenue, under the rules in Section xxi. Regulation II. 1819, declaring the liability to assessment of lands, whether the same be situated in districts to which the jurisdiction of a special Commissioner has been extended, or in any other district, shall be carried into immediate execution by the Collectors or other local Revenue Officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed, shall have sued or shall sue to contest the Board's decision in one of the

Decisions passed by Boards of Revenue under Sec. xxi. of Reg. II. 1819, to be carried into execution, notwithstanding the parties may have sued to contest the decision. Consequence of persons declining to pay assessment.

established Courts of Justice, or to the Commissioner appointed under this Regulation, and such parties shall not be permitted to retain possession of the lands, unless they enter into an engagement to pay the assessment which may be fixed upon them, such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof. And if any person against whom the Board may have decided, shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue, as the Collector, under the orders of the Board, may see fit to adopt: but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six per cent. per annum.

Third. All suits which may be instituted in the established Courts of Justice, under the provisions of Sections xxii. and xxiv. Regulation II. 1819, and Section v. Regulation IX. 1825, to contest decisions of the Boards of Revenue, shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board, and the reply to those objections on the part of the revenue authorities; the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that such evidence was tendered by the party adducing it to the Collector or the Board, and was then rejected on insufficient grounds, or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.

Fourth. Provided however, and it is hereby enacted, that nothing contained in the preceding Clause shall be construed to bar the admission of a further appeal on the part of the revenue authorities to the Provincial Courts or the Court of Sudder Dewanny Adawlut, from decisions passed in the first instance in the Zillah or the Provincial Courts respectively, in cases of the nature described, and specially provided for in Section vi. Regulation XIV. 1825, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government, under the rules in Section xxvi. Regulation II. 1819.

Fifth. Appeals filed in the established Courts of Civil judicature to contest decisions of the Board of Revenue, shall be kept on a file or register distinct from that on which other suits before those Courts are entered; and the Civil Courts are hereby required to appropriate the first day in each week to the trial and decision of such appeals, and to prevent any unnecessary delay on the part of the appellants in prosecuting their appeals by a strict enforcement of the rules prescribed in Section xii. Regulation XXVI. 1814.

XI. *First.* There being reason to believe that the rules in Section iii. Regulation LVIII. 1795, and Section xi. Regulation XXXI. 1803, whereby the Judges of the Zillah and City Courts were directed to furnish the Collectors of the districts in which the land may be situated, and the Board of Revenue, with copies of every decree passed by them in suits between individuals, or sent to them by the superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, may be affected, has not generally been observed by those Courts; Section ix. Regulation VIII. 1811, and Section ix. Regulation V. 1813, having also been rescinded by Regulation II. 1819, without due provision being made for all successions to the possession of *lakhiraj* tenures being duly reported to the revenue officers, the following rules are now enacted for that purpose.

Second. Persons succeeding to the possession of any lands held free of assess-

ment, or held on a mocurrery jumma, on the decease of a former occupant, or by gift, purchase, or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the Collector or other officer exercising the powers of Collector within the district in which the land may be situated, and any omission to notify

such succession or transfer for a period of six months or more, shall subject such land to immediate attachment by the revenue officers. Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the revenue authorities, until such party shall have paid to Government a fine equal to one year's rent, and if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve per cent. per annum; provided, also, that the said rent and collections shall be estimated according to the assessment demandable from the ryots at the time of attachment.

Third. Where the lands of any individual may be attached under the above

rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment, or on a mocurrery jumma, shall be investigated and determined by the Collector, under the provisions of Regulation II. 1819, as modified by the present Regulation, and by those

which have been intermediately enacted.

XII. All tenures which may not have been duly registered in the manner

prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title, or as a perpetual endowment, shall be and be held to have been liable to resumption, unless declared hereditary by a final decree of a competent authority.

demise of the persons who were in possession at the dates respectively of Regulations XIX. and XXXVII. 1793, Regulations XLI. and XLII. 1795, Regulations XXXI. and XXXVI. 1803, Regulations VIII. and XII. 1805, according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government. And Collectors and other officers exercising the powers of Collector, shall accordingly proceed to assess, and if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding. Provided further, that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognised, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jaghires consequently shall not be held to be life tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest: nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual, if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.

XIII. *First.* The uninhabited tract known by the name of the Sunderbuns

has ever been, and is hereby declared still to be, the property of the State: the same not having been alienated or assigned to zemindars, or included in any way in the arrangements of the perpetual settlement, it shall therefore be competent to the Governor General in Council to make, as heretofore, grants, assignments, and leases of any part of the said Sunderbuns, and to take such measures for the clearance and cultivation of the tract as he may deem proper and expedient. All parties to whom such grants, leases, or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sunderbun

jungle so granted or assigned, without question or opposition, and all public officers shall aid and assist the same. Provided also, that if any zemindar, talookdar, or other sudder mālguzār, or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased, or assigned, shall sue in any Court of Adawlut, or before a special Commissioner, under this Regulation, to contest the validity of the title or the right of possession of any such lessee or grantee, under such grant, lease, or assignment, then if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased, or assigned, within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs. Provided, however, that if any zemindar, talookdar, or other person aforesaid, shall claim to possess a valuable interest in any part of the Sunderbuns, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood, or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognised as part of the assets, on which the assessed revenue of his zemindarry, talookdarry or other tenure was adjusted at the time of farming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made, under the rules relative to the collection of sayer revenue, or other similar arrangement, such zemindar, talookdar, or proprietor shall be entitled to receive from Government compensation for any diminution in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sunderbuns: the same being duly established, after an investigation conducted under the rules of Regulation II. 1819, as modified by this Regulation.

Second. The boundary of the Sunderbun jungle shall be laid down by accurate survey, as determined on the spot by the Commissioner of the Sunderbuns; and any zemindar, talookdar, or party interested, shall be entitled, on application made through the Commissioner, and on payment of the charge of preparing the same, to receive a copy of the survey map, or of any part of the same, with the boundary marked there as so determined, together with a copy of the Commissioner's proceedings on the subject. Any party deeming his right injured by the demarcation so laid down, shall be at liberty, at any time within three months from the date of the Commissioner's proceeding fixing the same (which proceeding shall always be held and published on the spot), to contest the same by petition to a special Commissioner under this Regulation, having local jurisdiction for the time being (or if no such jurisdiction exist, to the ordinary Courts of Justice, by which the case is cognizable), praying further investigation; provided that no plea of objection against the line of demarcation laid down shall be heard or admitted, excepting only such as shall declare and offer proof that at the time of survey a specific quantity of land, or land with defined limits, was in the occupation of the petitioner cleared and under cultivation, which, by the line of demarcation adopted, is placed within the Sunderbun tract belonging to Government. Every such application so made shall be regarded as a claim to hold the tract claimed free of the public assessment, and shall be investigated and decided under the rules of Regulation II. 1819, as modified by this Regulation.

RULES OF PRACTICE for regulating the Proceedings of the Special Commissioners appointed under Regulation III. 1828: PASSED by the Right Honorable the Governor-General in Council on the 21st August 1828.

Serishteh: Cases transferred to Commissioners, and received in appeal by them, to be numbered and filed in three separate registers, according to a given form.

I. The several cases which may be received for trial by each Commissioner, whether transferred by the Courts of Justice, or Boards of Revenue, or received on appeal by parties, shall be regularly numbered and entered on separate file-books, according to the following classification, *viz.:*—

One file for cases of lakhirāj lands or tenures claimed to be held free of all rent.

One file for cases of claims to hold land at mocurrery, or fixed jumma, or to resist the assessment of land on the plea that it is included in settled estates, such as halabad, noabad, towfeer, and puteetabadee lands.

One file for new churs and jungle lands claimed as the absolute property, and at the disposal of Government.

Each file to be kept according to the form (A) annexed.

II. Each Commissioner is to entertain a mohafez dufter, who is to have special

Each Commissioner to entertain a mohafez dufter, to be held responsible for safe custody of records.

charge of the records of cases to be heard and determined, for the safe custody of which that officer shall be held responsible, and all officers, who may be employed by the Commissioners in the execution of the duty confined to them, shall be considered as exclusively under their control.

III. Whenever the record of any cause may be transferred by a Court of

Admission of appeals. In suits transferred from Courts of Justice, notice to parties how to be issued.

Justice to a special Commissioner, under the rule contained in the fourth Clause of Section ii. Regulation III. 1828, the Commissioner shall, in a Persian roobakarry, acknowledge the receipt of the record, and request the Court to intimate the transfer to all parties connected with the suit, who may

have appeared before it. The Commissioner shall further issue a notice according to the form in use in the Courts of Justice, to be served through the Zillah or City Court within the jurisdiction of which the lands may be situated, requiring their attendance for the purpose of prosecuting or defending the suit, as the case may be; all notices of the above description, which it may be necessary to issue to any officer on the part of Government, shall be served as herein-after directed.

IV. In all cases which may be transferred to a special Commissioner by a

In cases transferred from the Revenue Boards, similar notices to issue to the parties.

Board of Revenue, under the provisions of the sixth Clause of Section ii. Regulation III. 1828, the Board shall be requested to notify the transfer to the parties or their agents, who may have appeared before them, and notices, similar

to those prescribed in the preceding Section, shall be issued for the attendance of the parties, to be served through the Judge of Zillah or City Court within the jurisdiction of which the lands may be situated.

V. Whenever any person, who may be dissatisfied with a decision passed by a

Collectors how to proceed when petitions of appeal are presented to them.

Collector, shall, under the option given in the second Clause of Section iv. Regulation III. 1828, present his petition of appeal to the Collector by whom the decision has been passed, it shall be the duty of that officer, after having had

a complete copy of the record of the case made for retention in his own office, to transmit the original record of the suit, accompanied by an accurate list of all the papers contained in it, to the office of the special Commissioner of the division: in making a transcript of the record previous to transmission, the Collector is to be specially careful that all sunnuds and other documents are accurately and faithfully copied for record in his office; and the original record is, in all practicable cases, to be transmitted within fifteen days from the date on which the petition of appeal may be filed.

VI. On the same day on which the original record of any case appealed may

Notice of transmission of record to be given to the appellant and other parties concerned.

be transmitted from the Collector's office to that of the special Commissioner of the division, the Collector shall issue a notice to the appellant, apprising him thereof, and requiring him to attend the Commissioner, either in person

or by an authorized agent, for the purpose of prosecuting his appeal within six weeks from the date of the receipt of such notice: if any other person, not being an officer of Government, shall have been a party to the case, a similar notice shall be issued to such person, and the due service of such notices shall, on their being returned to the Collector, be certified by him to the special Commissioner.

VII. It shall likewise be the duty of the Collector, on the transmission of the

Collector to apprise the agent of Government appointed at the Commissioner's cutcherry of the admission of the appeal.

record of any case appealed as above specified, to give notice of the admission of such appeal by perwannah, addressed to the officer who may be appointed, as hereinafter provided, agent on the part of Government at the cutcherry of the special Commissioner.

VIII. Every petition of appeal from the decision of a Collector, preferred direct

Petitions of appeal preferred to Commissioner to be accompanied by authenticated copy of decision appealed from.

Commissioner how to proceed when appeal is admitted from decisions of Collectors, and how to proceed if the appeal be from a decision of a Revenue Board.

to a special Commissioner under the rule quoted in Section v., or from the decisions of a Board of Revenue, under the provisions of the fifth Clause of Section ii. Regulation III. 1828, shall invariably be accompanied by a duly authenticated copy of the decree appealed from; and on the admission of an appeal so preferred, the special Commissioner shall, when the decision appealed from may have been passed by a Collector, issue a precept to that officer, requiring him, within a specified time, to transmit the original record of cause to the office of the special Commissioner, a copy of the record being retained by the Collector, as provided in the fifth Section of these rules; in cases when the

appeal admitted as above shall be from a decision passed by a Board of Revenue, the special Commissioner shall, by a Persian roobakarry, require such Board to transmit to his office the original record of the case (a copy being similarly retained), within a specified period.

IX. When an appeal may be admitted by a special Commissioner under the

Notice of the admission of an appeal to be given to other parties not appellants or officers of Government. Judges of Zillah and City Courts to certify the due service of such notice.

rules contained in the two preceding Sections, if there shall appear, on a perusal of the decree appealed from, to be any individuals interested in the issue of the appeal besides the appellants and the officers of Government, it shall be the duty of the special Commissioner to direct a notice of the nature described in Section vi. of these rules, to be served on such persons, through the Zillah or City Courts within the jurisdiction of which they may reside, and the due service of such notice shall be certified by the Judge of such Court, in reply to the precept issued to him by the Commissioner.

X. In cases which may be referred to the special Commissioners by the Revenue

Notice to respondents and other parties in cases referred to special Commissioners under Cl. 4, Sec. iv. Reg. III. 1828, how to be served.

Boards, under the provisions of the fourth Clause of Section iv. Regulation III. 1828, the notice therein directed to be issued for the attendance of the respondents, as well as any notice which it may appear proper to the Commissioners to issue for the attendance of any other party, not being an officer of Government, shall issue through, and be served by the Judge of the Zillah or City Court of the district in which the respondent or such party may respectively reside.

XI. With reference to the provisions of Clause Third, Section iv. and Clause

In certain cases Collectors are to stay execution of decrees in cases appealed.

Second, Section vi. Regulation III. 1828, it is provided that, whenever a petition of appeal shall be preferred to a Collector against a decision passed by him, declaring land liable to assessment, or when a Collector may have reason to believe that it is the intention of the party against whom such decision may have been passed, to appeal therefrom within the period limited by the above Regulation, he shall not proceed to carry the decree into execution until after the expiration of that period, unless he shall be sooner apprised that an application on the part of the appellant to stay execution of the decree has been rejected by the special Commissioner, in which case, or otherwise after the expiration of the period limited for appealing, he may proceed to execute the decree, unless prohibited from so doing by order of the special Commissioner.

XII. Provided also, that in cases in which the petition of appeal may be

When petition of appeal is filed before the special Commissioner, he may order execution to be stayed.

these rules.

filed before a special Commissioner, if, on a perusal of the decree, he shall see reason to direct execution thereof to be suspended, an order to that effect shall be issued to the Collector, along with the requisition for the original record of the cause directed to be issued in the eighth Section of

Rules relative to pleadings.

Petition of appeal to be written on stamped paper, value one rupee.

XIII. Every petition of appeal from the decision of a Board of Revenue or of a Collector, which may be preferred to a special Commissioner, under the provision of Regulation III. 1828, shall be written on stamped paper of the value of one rupee.

XIV. It shall be at the option of the appellant to enter the grounds of his appeal in detail in the petition for the admission of his appeal, or to reserve his arguments to be brought forward in a separate pleading; but in the event of his adopting the latter course, such pleading shall be written on stamped paper, value one rupee.

Petition may contain grounds of appeal, or the latter may be advanced in a separate pleading.

XV. In appeals wherein an officer of Government is the party respondent, the reply to be filed to the grounds of appeal is to be written on stamped paper, value one rupee, and a reply, either in express refutation of the pleas of the appellant, or generally resting the defence on the grounds recited in the decree appealed from, shall be required in every case.

Reply of Government to be written on the same paper, and always to be put in.

XVI. In cases referred by the Revenue Boards for revision to the special Commissioners, under the rule in Clause Fourth, Section iv., Regulation III. 1828, the Board referring the case shall be required, in reply to the reference, to direct the superintendent and remembrancer of legal affairs, or some other public officer, to file a pleading containing the grounds on which the Board are dissatisfied with the Collector's decree, and such pleading shall be written on stamped paper, value one rupee.

In cases referred for revision by Revenue Board, under Cl. 4, Sec. iv. Reg. III. 1828, Board to direct a public officer to file a pleading containing grounds of dissatisfaction.

Reply of respondent to be written on stamped paper.

XVII. The reply of the party opposed to Government, in cases of the above description, shall likewise be written on stamped paper, value one rupee.

XVIII. No miscellaneous petition or pleading of any kind, beyond the wujoohat of the appellant, and the reply of the respondent, shall be admitted, unless on a verbal representation by the parties or their agents, before the Commissioner, such additional pleading or miscellaneous petition shall appear necessary, but when admitted to be so by the Commissioner, and allowed to be filed, it shall be written on stamped paper, value one rupee.

No further pleadings to be admitted, except under special circumstances.

Above rule not to apply to petitions of suspending execution of decrees pending appeal.

XIX. The foregoing rule is not, however, to be construed to prevent the admission, by the special Commissioners, of petitions presented solely for the purpose of staying execution of decrees, which petitions may be received and acted on at any time, pending the decision of an appeal.

XX. With reference to the provisions for a review of judgment contained in the fifth Clause of Section iv., Regulation III. 1828, it is provided that all petitions for review of judgment which may be presented to the special Commissioners, shall, if presented within two calendar months from the date of the decision of which review is prayed, be written on stamped paper, value one rupee: but if presented after the expiration of the above period, such petition shall be written on the stamped paper prescribed in Section xiii., Regulation I. 1814, calculated at the computed annual produce of the land in dispute.

Petitions for review, on what paper to be written.

XXI. If any appellant shall not, within the period of six weeks from the date of instituting his appeal, if preferred direct to a Commissioner, or if filed at the Collector's office, from the date on which he may receive notice that the record of the case has been transmitted to the Commissioner, either attend in person, or appoint an agent as hereinafter provided and prosecute his appeal, a further notice shall be issued by the Commissioner, through the Zillah or City Court, requiring such appellant to attend and prosecute his appeal within fifteen days of the receipt of such notice. If the peon charged with the service of the notice cannot serve it upon the appellant personally, he shall proclaim the same at the dwelling of the appellant in the presence of witnesses, and such proclamation shall be deemed equivalent to personal service; and if the appellant shall afterwards omit or refuse to attend the Commissioner within the prescribed period, his appeal shall be dismissed, with costs.

Rules regarding default. An appellant defaulting for six weeks, to be called on by a notice to appear. What to be deemed due service of such notice.

XXII. If an appellant, after having appointed an agent to plead his cause, shall neglect to prosecute the same for a period of six weeks, a requisition by the Commissioner to such agent to proceed in the case within fifteen days shall be held equivalent to a notice to the appellant, and in the event of his not so proceeding, his appeal shall be dismissed.

XXIII. All notices required to be served on any officer of Government concerned in a suit before the Commissioners, shall be delivered to the agent appointed on behalf of Government at each Commissioner's cutcherry, who shall give a receipt for the same, and transmit a copy thereof to the officer concerned, and return the original to be filed on the record.

XXIV. Should the special Commissioners, acting on the discretion vested in them, in common with the ordinary Courts of Justice, by the third Clause of Section x., Regulation III. 1828, deem it necessary or proper to receive further evidence, oral or documentary, in any case depending before them, no stamp fee shall be levied from the parties for summoning witnesses or filing exhibits.

XXV. If, in any case, the special Commissioners shall deem the further evidence of witnesses necessary, they shall be summoned and examined by the Judge of the zillah or city within which they may reside, on specific points indicated by the Commissioners and recorded on their proceedings. If a party, at whose instance a witness may be summoned, will undertake himself to produce him, or to serve the subpoena on him, he shall be allowed to do so, otherwise the process shall be served by a peon of the Zillah or City Court, under the ordinary rules in force: the same course shall be followed whenever it may be considered necessary to examine a witness before any of the special Commissioners.

Further evidence of witnesses required, to be taken by zillah or city Judge on specific points.

Party may produce his witness himself, or undertake the service of subpoena on him.

Same course when a witness is required to be examined before a Commissioner.

Rules relative to mokhtars or agents, and their remuneration.

Parties may plead themselves, or appoint agents.

XXVI. Every party whose case may be depending, under Regulation III. 1828, before a special Commissioner, shall be at liberty, if he chooses, to attend and plead his own cause in person, or to appoint a mokhtar or agent specially for that purpose.

XXVII. Every person who may appoint an agent, as above authorized, shall execute a regular power of attorney in such agent's name, and the execution of such instrument, which may be written on unstamped paper, shall be attested by some European public officer, and it shall be filed on the record of the case.

Regular power of attorney, appointing an agent to be executed and filed on the record.

The parties not restricted in choice of agents to any particular number of individuals, but they must be of good character.

XXVIII. The parties in cases before the Commissioners, are not to be restricted in the appointment of agents to any particular number of individuals, provided that the persons appointed shall appear to the Commissioners to be of good character and respectability.

XXIX. The parties shall be at liberty to make such arrangements in regard to remuneration for their services with the mokhtars or agents whom they may appoint, as may be agreed on among themselves; provided, however, that if, on the decision of the case, the parties shall disagree as to the sufficiency or otherwise of the terms agreed on, the amount shall be fixed by the Commissioner or Commissioners by whom the case is decided; provided also that if any mokhtar shall (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.

Parties at liberty to settle with their mokhtars the amount of remuneration to be paid for their services.

If they disagree, &c. decided; provided also that if any mokhtar shall (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.

XXX. Every agent or mokhtar, who may be appointed to conduct a cause before the special Commissioners, shall be subject to fines and other penalties for neglect, contempt of Court, or other misbehaviour, to the same extent and in the same manner as the regular pleaders of the Courts of Justice are subject by the Regulations.

XXXI. An agent shall be appointed (if approved by Government) by the Superintendent and Remembrancer of legal affairs, to attend on behalf of Government at each cutcherry, where suits may be heard and determined by the special Commissioners, and such agent shall be remunerated by a fixed salary, or in such other manner as the Governor-General may be pleased to determine; the agent so appointed shall, moreover, be liable to all the rules applicable to Government pleaders, as well as to the rules prescribed for the agents who may be employed by individuals to plead before the Commissioners.

XXXII. In giving judgment in each case, if the special Commissioners shall see reason to interfere in regard to the compensation to be paid by the parties to the agents employed to plead their cause, the amount of remuneration finally authorized shall be inserted as costs at the foot of the decree; distinct provision shall likewise be made in every decree as to whether the party against whom it is passed is, or is not, to bear the whole or any portion of the expenses which may have been incurred by the party opposed to him, including, of course, costs of the nature indicated in the seventh Clause of Section ii., Regulation III. 1828, in cases to which that Clause may be applicable.

Rules relative to decrees and costs of suit.

Where Commissioners interfere as to agents' remuneration, the final sum awarded to be entered in the decree as costs.

Provision also to be made for the mode in which all costs are to be borne by parties.

may be applicable.

XXXIII. The original decrees of the special Commissioners, intended to be kept with the records of the cases, as well as three counterparts, to be disposed of as underneath directed, are to be transcribed on plain paper, but of European manufacture exclusively; one counterpart shall, as soon as practicable, be delivered to the party opposed to Government; one counterpart shall be transmitted to the Collector of the district in which the land is situated; and the remaining counterpart shall be forwarded to the Board of Revenue, or other authority exercising the powers of a Board of Revenue, under the control of which such Collector may be placed. All other copies of the decrees of the Commissioners, which parties may require for private use, or as documents to exhibit in evidence, shall be made at the expense of the parties on plain or stamped paper, under the general Regulations in force; but such copies shall only be permitted to be prepared by persons duly authorized by the Commissioners.

XXXIV. In transmitting a counterpart of the decree, as above directed, to the Collector, the Commissioner, by whom it may have been passed, shall accompany it by instructions to that officer to carry it into immediate execution, and to report within a given period, the measures which he may have adopted for that purpose.

Commissioner, in transmitting counterpart of decree to Collector, to order him to execute it, & report progress thereon.

Unless otherwise provided, the Commissioners to be guided by Regulations in force for the trial of appeals.

XXXV. In all matters not specially provided for in the foregoing rules, or in Regulation III. 1828, the course of proceeding shall be conformable to the rules in force for the guidance of the Courts of Justice in the trial and decision of regular appeals.

XXXVI. With a view to ensure uniformity in the proceedings and practice of the several special Commissioners appointed to act under Regulation III. 1828, it is hereby provided, that whenever it may be deemed necessary by any special Commissioner to propose rules of practice, either original or in modification of the present rules, he shall transmit a draft of such rules to each of the other Commissioners acting under the Regulation, with a request that they will record their sentiments on the expediency or otherwise of the proposed

Any Commissioner proposing new rules, to submit his draft, before it is sent to Government, to the other Commissioners for their opinions, which are to accompany the reference.

III. This Act shall apply to all suits commenced under Section xxx. of Regulation II. 1819 and pending decision under that Section in any Court (other than a Court to which such suit has come by way of appeal) or before any Collectors at the time of the passing of this Act. All Collectors shall forthwith transfer to the ordinary Courts of Civil Judicature all such suits, whether originally instituted before them, or referred to them by the Civil Courts, as may be pending before them at the time of the passing of this Act; and all suits so transferred shall be heard and determined as provided for by this Act, and not otherwise.

Collectors shall transfer all suits pending before them to the Civil Courts.

at the time of the passing of this Act; and all suits so transferred shall be heard and determined as provided for by this Act, and not otherwise.

IV. This Act shall not in any way invalidate or alter the effect of anything which shall have been done in any suit prior to the passing of this Act; and all proceedings which, prior to the transfer of any suit, shall have been held, or shall have taken place under, or in accordance with, the provisions of Section xxx. of Regulation II. 1819, shall be taken, and shall have effect, so far as circumstances will permit, as if the same had been held or had taken place in due course in the Court to which the suit shall be transferred.

Act not to invalidate proceedings, &c., under Section xxx. of Regulation II. 1819, and transfer of suit to Civil Court not to alter effect of proceedings previously had.

RESUMPTION RULES.

PRESCRIBED BY THE BOARD OF REVENUE, L. P.

INTRODUCTION.

1st. UNDER Clause 3, Section IV. Regulation III. of 1828, a Collector, having decreed land liable to resumption, was empowered, whether an appeal were preferred or not, to carry his decision into effect by attaching and assessing the land. The Government Order circulated on the 8th March 1831, exempted resumed land from assessment for six months from the date of the decree, and authorized the appellate authority to stay assessment, pending the trial of the appeal, on security being provided for the eventual payment of Revenue from the date of the expiration of the six months' grace.

2nd. The original jurisdiction of Special Commissioners under Regulations III. of 1828, having, except in certain cases, been withdrawn by the Resolution of Government, dated the 15th April 1852, and 25th May 1853, and the powers of Collectors under that law having consequently ceased, the resumption process has reverted to what it was previous to 1828, *viz.*, to the practice prescribed by Section xx., Regulation II. of 1819. All cases decided in favor of Government, in which the period of appeal had not expired on the date of the Resolution, had, under the Section above quoted, to be reported to the Commissioner for orders: and where these upheld the resumption award of Collector, the resumed lands become at once liable to assessment.

3rd. Though the privilege of six months' exemption from assessment was not intended to apply to cases decided otherwise than under the provisions of the special law (III. of 1828,) the Government have now decided that it shall be extended to cases decided by the Commissioners under Regulation II. of 1819. Of course too, parties may, under Section ii. of this law, claim to retain possession of the resumed land by tendering security within a given period and by engaging to institute a suit in the Civil Court to try the justness of the demand.

4th. Henceforth there will be but few resumptions, and it is therefore unnecessary to repeat the numerous precautions which have been at different times prescribed for the guidance of the Revenue Courts in resumption proceedings. All that is required is to condense, in a few rules, such instructions as will apply to the present practice.

5th. In Appendix No. 1 will be found a memorandum drawn up by the Secretary to Government in 1825, for the purpose of showing the different arrangements adopted previously to that which was formally enacted by the Code of 1793. Its object was to indicate the powers vested in the several Officers whose acts and orders might be cited in *lakhiraj* trials; the general principle being thus enunciated, that the power of granting and confirming *lakhiraj* tenures, excepting by a regular judgment passed after a judicial inquiry, belongs and always has belonged, to the Supreme Government. The declaration of this principle was at the same time provided for in Regulation XIV. of 1825.

6th. In Appendix No. 2. will be found the rules passed by the Supreme Government on the 17th August 1840, for the guidance of Officers prosecuting public claims in regard to *lakhiraj* tenures. They are to be understood as a declaration of the principles on which such claims are to be prosecuted, and as binding on all Officers who conduct prosecutions or appeals.

RULES.

I. No suit at the instance of Government for the resumption of lands claimed to be held rent-free, shall be instituted without the previous sanction of the Board of Revenue obtained in each case. This rule does not refer to suits in which Government, as *Zemindar*, seeks to assess tenures under 100 *bighás* in Government Estates under Section xxx., Regulation II. of 1819.

II. Suits are not to be instituted on the part of Government in cases in which the plots of land, of which the tenure is composed, are all of a less area according to the register than 50 *bighás* in any one village, but this prohibition does not affect tenures under 100 *bighás* within Government Estates.

III. Although with reference to Clause 1, Section iv. of Regulation XIX. of 1793, a hukmî tenure less than 100 bighás situated within the limits of a permanently settled estate is a legal escheat to Government if the Rent-free proprietor die without heir, the right is never to be enforced.

IV. The Collector must report through the Commissioner, for the orders of the Board, the particulars of each case in which he wishes to institute a suit on behalf of the State. It should be shown what is the probable income from the tenure, what is its character, how it came to light, and whether it is *prima facie* liable to assessment.

V. Care must be taken that the preliminary proceeding directing issue of notice under Clause 2, Section v., Regulation II. of 1819, be not overlooked. It is not imperative on the Resuming Officer to assign in this proceeding any special ground for presuming the rent-free tenure to be invalid; it is sufficient for him to state generally that having reason to believe, either from reference to the registers in his office, or from some other source of information, that certain lands are held rent-free an inquiry into the validity of the tenure is considered necessary, and he therefore directs the usual notice to be issued and served in the prescribed manner on the holder of the tenure, requiring him to produce his title deeds, &c.

VI. No fees for serving process can be levied from defendants in resumption suits instituted on behalf of Government. Processes in such cases are to be served by salaried peons.

VII. Resumption cases are not to be tried during the period for which the Civil Courts are closed, unless both parties are in attendance.

VIII. "Khárij-jama" grants are to be dealt with as ordinary hukmî grants.

IX. Investigations into rent-free tenures held by independent chiefs, are to be conducted by the Political, and not by the Revenue Officers.

X. On receipt of the orders of the Commissioner of Revenue declaring lands liable to assessment, the resumed estate shall be immediately brought on the Register of Intermediate Mutations (Revenue Form No. 69.) It shall be the special business of the Serishtadar of the Office to see that the estate has been brought on that Register, and to report to the Collector, that the necessary entry has actually been made. The estate shall at the same time be entered on the Register of New Estates (Revenue Form No. 60.)

XI. If the owner of a resumed estate shall provide the security prescribed by Section xxii. Regulation II. of 1819, and institute a suit to try the justness of the resumption, the estate, pending the decision of the Civil Court, shall remain in his hands rent-free as heretofore. Should adequate security not be provided, the Collector shall endeavour to effect a summary settlement with the owner, demanding security only for the payment of the revenue assessed, which should be at the rate of half the supposed assets. Should the owner decline to settle on the terms demanded, or neglect to provide the required security, the Collector shall then proceed to farm the lands or take them under direct management, as enjoined by the law. On an order being passed for settlement with the owner, or for a farm, or for direct management, the estate shall be immediately brought on the towjih.

XII. On a decision being passed by the Civil Court upholding the orders of the Commissioner, or on the Commissioner's decision becoming final by reason of no suit being brought to contest it within the prescribed period of one year from the date of resumption, a regular settlement shall be made of the estate.

XIII. The resumption Courts must of course carry into execution their own decrees in the mode prescribed by the Regulations. But if land, denied to be included in such decrees, were not in the occupation of the lakhirájdár when the suit against him was instituted, but in the occupation of some other person who was not a party to the resumption suit, such land cannot be subjected to assessment by the Revenue Authorities without the institution of a new resumption suit against the party actually in possession.

XIV. Whenever an estate shall be forfeited, or shall escheat to the Government, or when new formations shall be assessed as separate estates under the provisions of Acts IX. of 1847, and XXXI. of 1858. it shall be the duty of the Sherishtadár to report that the necessary entry has been made in the Register of Intermediate Mutations and in Register No. 60, as prescribed for resumptions in Rule X.

XV. To secure the enrolment of every resumption, escheat, &c., it is necessary that the registry number of every such estate reported for farm or for settlement, be entered in the Settlement Statement of the Collector or Settling Officer.

REMUNERATION OF GOVERNMENT AGENT AT SPECIAL COMMISSIONER'S COURT.

XVI. By Government Order, dated 10th May 1845, the Government Agent at the Court of the Special Commissioner, or other Officer exercising the powers of Special Commissioner, under Regulation III. of 1828, was declared entitled to remuneration in cases brought by his exertions to a successful issue, the same to be calculated in the following manner:—The lands to be rated all round at a low average, say, for rent-free lands, six annas, and alluvial lands three annas per acre, to find the Revenue, and the product to be trebled to represent the value upon the principle observed in civil suits. Sunderbuns, and in fact all extensive waste lands, should be dealt with as alluvial lands. Upon the value so determined, fees to be allowed on the graduated scale fixed by Section xxv. Regulation XXVII. of 1814, for vakeels of the Civil Courts, as follows:—

If the value do not exceed 5,000 Rupees, 5 per cent.

If the value exceed 5,000 Rupees and do not exceed 20,000 Rupees, on 5,000 Rupees as above, and on the remainder 2 per cent.

If the value exceed 20,000 Rupees and do not exceed 50,000 Rupees, on 20,000 Rupees as above, and on the remainder 1 per cent.

If the value exceed 50,000 Rupees and do not exceed 80,000 Rupees, on 50,000 Rupees as above, and on the remainder $\frac{1}{2}$ per cent.

If the value exceed 80,000 Rupees, the fee to be 1,000 Rupees, the maximum amount.

In all the preceding calculations, fractions of a Rupee to be rejected.

XVII. In cases of lands heretofore held at an inadequate Revenue, the same rule shall be observed, except that the Revenue already derived from the lands must be deducted in computing the value of the suit.

XVIII. These orders must regulate any outstanding claims to fees on the part of the Government Agents, and the principle therein laid down must be observed in computing the value of the suit in cases which may be taken into the Civil Court under Regulation II. of 1819. But the vakeels of those Courts will be entitled to their fees without reference to the result of the suit.

APPENDIX

No. I.

Memorandum by the Secretary to Government, Territorial Department, dated 18th August 1825.

THE Provincial Councils established on the 23rd November 1773,* were authorized to grant sunnuds for málgoozáree lands, bearing a jumma† of 1,000 Rupees, and for lákhiráj lands, bearing a jumma of 100 Rupees, all such sunnuds to be duly registered, and copy of registry sent to the Presidency.

2nd. It has been sometimes supposed, that the above Rule was designed to vest the Council with a power of making grants to a limited extent, and consequently their power of confirming existing grants had no limit. This however appears to be a mistake. The sunnuds were to be issued in a judicial capacity, and Government never seems to have delegated the right of making gratuitous grants, though of course, if the Council abused their trust, it would be impracticable, probably, to distinguish the one case from the other, and all their sunnuds, regularly issued and duly authenticated, must be held conclusive for lands of the above value.

3rd. By the plan of a Bazee Zamín Dufter for Bengal, proposed by the Committee of Revenue, on the 23rd May 1782, and approved by Government on the

* Revenue Consultation, 23rd November 1773, Article 20.

† This is the word used, probably yearly rent was meant.

31st of the same month, the Superintendent was directed to prepare drafts of new grants to possessors of rent-free lands, antecedent to the 12th August 1765, to attest them, and deliver them to the Committee for approbation. Grants of a subsequent date, if not already confirmed by the Government, or the late President and Council were not to be deemed valid until confirmed by Government.

4th. It was at the same time distinctly provided, "that the Superintendent of the Bazee Zamín Dufter is not in any case to decide upon the property of the land, or the validity of the titles; but to make his report to the Committee by whom the decision is to be made."

5th. In the ninth Article, also, it is provided, that the Superintendent should prepare the drafts of the new sunnuds to be granted under the 8th Rule for lands held free of assessment, antecedent to the 12th August 1765, and that, having attested them, he should deliver them in to the Committee of Revenue for approbation.

6th. By the Regulation proposed by the Committee of Revenue on the 18th August 1783, and approved by Government on the 26th of the same month, the Superintendent was authorized to confirm sunnuds for lands not exceeding 200 bighás.

7th. This last Regulation provided also for the confirmation, without inquiry, of sunnuds falling under the rule of November 1773 above quoted, which had been before overlooked. It likewise confirmed grants of land (not Comar) made by Zemindars, in cases in which they did not exceed 50 bighás.

8th. Through some (apparently clerical) error, it would appear, that while by the rules as recorded on the records of Government, the limit is above 200 bighás, the Board's records specify 250 bighás as the quantity which the Superintendent might confirm, and as this appears to have been acted upon, it must, I apprehend, be allowed to stand.

9th. It also appears from the Board of Revenue's records, that on the 25th July 1782, the Superintendent was authorized to confirm, without investigation, the rent-free tenures of Brahmins in cases in which they did not exceed 10 bighás in extent. This rule appears to be virtually sanctioned by Clause 4, Section iii., Regulation XIX. of 1793, but its operation must be limited to grants made before 1178 B. S. and 1179 F. S.

10th. Sunnuds referred to the Committee would appear to have been signed by the President, being likewise signed by the Superintendent and authenticated with the seal of his office.

11th. In the plan submitted by the Board of Revenue, with their letter of the 25th September 1787, and approved by Government on the 16th October following, the powers of the Superintendent (Mr. Young) were considerably circumscribed; the duty of inquiry being vested in the Collectors, while to the office of the Superintendent of the Bazee Zamín Dufter was assigned merely the task of arranging the materials furnished by them.

12th. The above statement has reference to Bengal, in regard to which it may be proper further to remark, that the proceedings of the Superintendents (J. Dynely and E. A. Young) would appear to have been confined to the districts of Midnapore and Burdwan; and from the latter districts no reports appear to have been made to the Committee, and no sunnuds for lands exceeding 250 bighás purporting to have been issued by the Superintendent, can be authentic, or, if authentic, valid. In all cases, too, signatures and seals should be narrowly examined, the latter especially; both because the seal of the Dufter appears to have been lost or mislaid (not having been delivered to the Board of Revenue with the Records in 1793) and because it must have been easily counterfeited.

13th. In Behar an investigation was made by Mr. George Vansittart, Chief of the Provincial Council in 1773, but appears to have been confined to "jagheers and altumgha and mudud-mash tenures. On the 29th June 1784, an office of registry was established according to a plan proposed by Mr. Shore. Mr. Bushby was appointed Superintendent, and Mr. Holt his Assistant.

14th. Lands, the annual produce of which did not exceed 200 Rupees were exempted from inquiry; and in regard to more extensive tenures, it was clearly the intention of Government to confine the duties of the Superintendents to that of investigation and report, and not to vest them with any power of confirming grants.

15th. Mr. Bushby and Mr. Holt, however, appear to have greatly exceeded the line of their duty, and much confusion and mischief seem to have been likely to ensue, when the Committee of Revenue interposed on the 7th November 1785. The Committee addressed Government, stating that the Superintendent had, without authority, hazarded certain material deviations from their instructions: urging the mischief likely to attend any extension of power such as the Superintendent desired to obtain, which they observed, would render the Dufter a Court for the "resumption of land from Government," and suggesting the following specific rules:—

I. "That the Superintendent of the rent-free lands in Behar, as to the mode "and extent of his investigations, should be directed to conform strictly to his "original instructions."

II. "That all disputes between rent-free land-holders should be settled, not by "him but through the regular channel of Adawlut."

III. "That, on the demise of jagheerdars, &c., or as often as disobedience to "his orders, in any persons subject to his authority might make it necessary, the "Superintendent should possess the power of attaching their lands, and of collect- "ing and keeping in deposit the rents, giving early notice to the Committee of his "having done so, with his reasons; but, in no case, should he resume any land "without the express sanction of the Hon'ble Board previously notified to him "through the same channel."

IV. "That all lands so resumed shall be forthwith delivered over to the "Collector within whose limits they may be respectively situated."

V. "That neither new sunnuds shall be granted, nor former sunnuds con- "firmed by the Superintendent, without the approbation and orders of the Com- "mittee of Revenue, or of the Honorable the Governor General in Council through "the Committee of Revenue."

VI. "That málgoozáree land, or in other words land now paying rent to Govern- "ment, shall be wholly and absolutely exempt from any inquiry or investigation "by the Superintendent."

VII. "That transcripts of all the Superintendent's proceedings be transmitted "monthly to the Committee of Revenue." "Without these" (the Committee added) "we can neither ourselves form a precise judgment of the state of the business, "nor report upon the conduct and progress of it to the Board, either with "accuracy or confidence."

16th. The Committee observed, that under such restrictions Mr. Young, Super- intendent of the Bengal Bazee Zámin Dufter, was then executing the trust reposed in him and executing it with success; neither giving to others any just cause of complaint, nor, as they believed, meeting himself with any obstruction.

17th. The rules proposed by the Committee were entirely approved of by Government.

18th. But the office appears to have been abolished on the 31st May 1786. A Resolution of Government dated the 22nd February of that year, directs that the office should be continued under the charge of Mr. Holt until the month of June following, with the same allowances as had been received by Mr. Bushby, who had resigned; and the proceedings of the Board of Revenue of the 7th June of that year, contain a letter to Mr. Holt, desiring him (as the period fixed by Government had expired,) to repair forthwith to the Presidency, and to deliver over the cash and records and lands (if any,) under his charge to the Collectors of the respective districts.

19th. On the 19th July 1786, it was resolved to invest the Collectors generally with the duty of investigating and reporting on lakhiráj tenures, and the Board of Revenue were desired to consider whether, and how long, the Bazee Zámin Dufter of Bengal should be continued.

20th. It appears to have been continued as a Presidency Office of Record, until February 1793, when it was finally abolished on the general introduction of the Cornwallis system.

21st. The above detail may be useful to the Boards and Collectors in deciding on the powers vested in the several Officers whose acts or orders may be cited.

22nd. It appears sufficiently to establish the limits assigned to the authority of Mr. Bushby and Mr. Holt; and the records of Government appear to show the necessity of strictly scrutinizing all the acts of those Officers.

23rd. With regard to surshikun tenures (though in many cases hereditary,) there seems to be no objection to the principle assumed by the Board that they shall be held to be for life only, where the contrary is not shown.

24th. Inquiries having been occasionally made in regard to the individuals who have at given times, exercised Judicial and Revenue powers in the several provinces and districts as Chiefs, Members of Council, Committees and Boards, Supervisors, Superintendents, Collectors and Judges, I propose to have a report, containing the necessary detail of appointments and removals, prepared in the Record Committee, and thence circulated to the several Mofussil Committees, respectively; such a Statement regularly brought down and continued from year to year, will be very useful.

25th. The Committee of Records may, also, I think, with advantage, select and print, for the information of the Service, several important papers touching points of general interest, now locked up in the offices of Government or among the records of the Board.

APPENDIX No. 2.

I. Officers charged with prosecuting claims against lakhirāj tenures shall not refer, or maintain, any suit for lands not exceeding ten bighās which have been held exempt from the payment of revenue or rent without interruption since the 1st December 1790. Provided that in the districts of Chittagong, Sylhet, and Cuttack this indulgence shall not extend to such lands, except where the produce is *bonā fide* appropriated as an endowment for temples, or for other religious or charitable purposes; and that in Cuttack the proof of rent-free possession, without interruption, shall not be required in the cases so excepted beyond the 14th of October 1803, the date fixed by Clause 7, Section xviii., Regulation XII. of 1805.

II. In all cases where the Sudder Board of Revenue, to whom general reports shall be made in the forms which the Board may prescribe, of claims relinquished under the preceding rule, shall pass orders for the confirmation of such relinquishment,

* Note.—The form adapted to the present state of things is that given in the following No. of the Appendix.

the orders shall be final; and a Certificate in the form* appended to these Rules shall be granted to the holder of the lands confirmatory of his title, to secure him from all future claims, on the part of the resumption Officers on account of the lands in question.

III. In Estates wherein the Government have acquired the proprietary right, and which it may be determined by the Revenue Authorities to let in farm, the farmer shall be precluded, by an express condition in his engagements, from instituting any process for the resumption of tenures referred to in Rule 1, under the privileges reserved to Zemindars, Talookdars, and other proprietors of Estates with whom a permanent settlement has been concluded.

IV. If it shall appear in the course of the investigation of any case, that the produce of the lands the revenue of which is claimed for Government (whether the same have been held since 1790, without interruption or not, and whether exceeding in extent ten bighās or less) has been applied consecutively to religious or charitable purposes, or to objects of general utility, it shall be the duty of the Officer prosecuting on the part of Government the claim to Revenue, to report the fact, through the prescribed channels, for the consideration and orders of the Government.

V. Whenever any land has been held lakhirāj, since the 12th August 1765, and the question shall arise whether having been so held, the tenure was originally hereditary, if it be proved, or be ascertained in the course of the investigation, that one or more successions took place before the said date, such succession or successions shall be admitted by the Government prosecutor or Agent as conclusive against the claim of Government to deal with the tenure as a grant for lives, liable to resumption upon decease of the incumbent of 1765; and if there be no proof of an actual succession by inheritance before the 12th August 1765, still, if from the circumstances of the case, there be strong ground of presumption in favor of hereditary possession anterior to that date, the Government Officers shall abandon the further prosecution of the

claim by lapse, and shall not require proof to the specific conditions of the original grant, in the manner prescribed by a strict interpretation of the existing Law.

VI. Whenever lands may be held under assignment for purposes in themselves permanent and perpetual, and their produce continues to be duly applied to those purposes, no benefit shall be taken, in the conduct of the prosecution on the part of the Government, of the provisions contained in Section xii., Regulation III. of 1828, under which, strictly construed, the grant, though specifying permanent objects, might be deemed to be for life, because of the omission of words declaring perpetuity in the grant. But if the grant be specified as a charitable provision for one or more persons, and not an endowment for purposes in their nature unlimited as to duration, it shall be construed strictly according to its terms.

VII. Persons in possession of lakhirāj lands in Cuttack from the date of the acquisition of the Province consecutively to the present date, shall be allowed to retain possession during their natural lives, and in the prosecution of any claim to try the validity of the grant or title by which lands may have been so held, the demand on the part of Government shall be for an award of resumption to take effect upon the decease of the incumbent.

VIII. Whenever decree of resumption may be passed against a lakhirājdār, who consecutively held the lands, and enjoyed the produce without demand of Revenue for thirty years from the date of decree, the case shall be reported through the Revenue Authorities to the Government, but the settlement of the lands under the decree shall not be delayed because of such reference.

IX. In the case of lands held under Badshahee title, if the possession since 12th August 1765, in Bengal, Behar, and Orissa, and since 1791, in Cuttack, be consecutive and uninterrupted, and if the plea for resumption be that the original grantee did not actually and *bonâ fide* obtain possession of the lands while the grantor exercised supreme power within the territory in which the lands are situate, it will be incumbent on the Government Officer conducting the prosecution to prove the affirmative of such plea. In like manner, subsequent non-resumption by a Government Officer being a condition of the validity of Badshahee grants, the lakhirājdār shall not be required to prove this negative by direct evidence, but if such subsequent resumption be alleged as a ground for resumption, the proof of the fact must be exhibited on the part of Government.

X. The claim to resume on the ground of non-registration of the tenure in the manner prescribed by the Regulations referred to in the margin, shall not be urged on the part of Government, except in districts in which registers duly prepared exist, to be produced, if required, before the tribunal deciding the case, and in which the issue of the publications prescribed in those Regulations may be susceptible of proof, nor shall the claim to resume for non-registration be urged in regard to any tenures registered in the Bazee Zāmin Dufters established by orders of Government, dated 31st May 1782, or in the office established for Behar by orders dated 29th June 1784, or in the Patna Registry office for Badshahee grants established in 1770-71, nor shall this claim be urged in respect to any tenures, the official recognition of which as lakhirāj, that is, the knowledge of the existence of which as such by the Public Officers of Government, can be proved from the public acts and proceedings of the Government, or of the Board of Revenue, or of the Land Revenue Collector of the district, of date prior to the passing of the Act under which the registration is made obligatory for the district in which the lands are situated.

XI. No title to hold land lakhirāj shall be brought into question, if otherwise valid as a permanent and perpetual tenure, on the sole ground that it is not duly described as such in the specification of the title required to be given in for registry under the Regulations above cited and referred to.

No. 3.

Form of Sunnud or Certificate of Relinquishment under Rule I.

এলাকে কাছারি অমুক জিলা অমুক।

বর্তমান ও ভবিষ্যৎকালের মুচ্ছদী ও কার্যকারক সকল এবং চৌধুরীআন ও জমিদারান ও তালুকদারান ও মোওয়াজেরান মোজে অমুক পরগণা অমুক জিলা অমুক জাত হইবে।

অমুক সাকিনের অমুক ব্যক্তি অমুক তারিখের লিখিত অমুকের মোহর দস্তখত এককোতা সনন্দ অথবা অন্য কোন দলিল দাখিল করিয়া শাস্ত্রগণের শাস্ত্রতার দ্বারা প্রমাণ করাইলেক যে উপরোক্ত মোজায় এত বিঘা জমি এই ব্যক্তির পিতামহ কিম্বা পিতা অথবা অন্য কাহার নামে বুদ্ধন্তর বা দেবন্তর কিম্বা অন্য কোন সৎজায় মোকরর ছিল এবং এক্ষণে এই জমি উহার দখলে ক্রমিক চসিয়া আসিতেছে ও সন ১৭২০ সালের ১ ডিসেম্বর তারিখাবধি এই ব্যক্তির নিজের এবং উহার পুত্রপুত্রদিগের ভোগ দখল অথবা এই জমির উপস্থিত দেবসেবা কিম্বা মশজীদ ইত্যাদি পুণ্য কর্মে ব্যয় হওয়া সাব্যস্ত আছে অতএব বহুকালের দখলবিধায় অথবা এই জমির উপস্থিত দেবসেবা ও মশজীদ ইত্যাদিতে ব্যয় হওয়া প্রযুক্ত সন ১৮৪০ সালের ১৭ আগষ্ট তারিখের গবর্নমেন্টের হুকুমানুযায়ী এই জমি অমুক নয়রি এই নূতন সনদের দ্বারা মজহরের নামে বুদ্ধন্তর কিম্বা দেবন্তর সৎজাতে সদর বোর্ডের সাহেবানের অমুক তারিখের মঞ্জুরি মোতাবেক সাবেক বদন্তর বহাল ও বরকরার রাখা গেল তোমরা মজহরের দখলে ছাড়িয়া দিবা কোন মতে আপত্ত্য করিবে না উপরোক্ত হুকুমানুসারে আমলে আনিবা ইতি সন মাল তারিখ

No. 4.

Bill of fees due to the Government Agent at the Court of the of in the
under-mentioned Resumption Suits.

No. of Appeal.	Appellant and Respondent.	Name of Estate and Pergunnah.	Extent of land decreed in local measurement.	Extent in English Acres.	Estimated revenue at 6 annas per Acre, for rent-free lands.	Estimated revenue at 3 annas per Acre, for alluvial lands.	Value of suit at three times the estimated revenue.	Percentage of Fees.	Amount of Fees at foregoing percentage on value of the Suit.	REMARKS.

Certified, that this bill has been drawn out in accordance with the Special Commissioner's Certificate, and the principle and rates of calculation prescribed by the Board of Revenue.

(Signed) A. B., Collector.

" C. D., Commissioner.

CHAPTER IV.

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**BUTWARRA LAWS.**

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## CHAPTER IV.

### REGULATION XI. OF 1811.\*

*A REGULATION for extending the Period fixed by the existing Regulations for revising the Jumma on Lands ordered to be divided into two or more Estates: PASSED by His Excellency the Vice-President in Council on the 10th August 1811.*

1. WHEREAS it is declared by Section xxv., Regulation XXV. 1793, extended to Benares by Section ii., Regulation XXVI. 1795, and re-enacted for the Ceded and Conquered Provinces by Section lv., Regulation XXVI. 1803, in regard to the allotment of the public jumma on lands ordered to be divided into two or more estates, that "if it shall be proved to the satisfaction of the Governor General in Council, within three years after the parties may have been put in possession, that the jumma was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment of the jumma upon the several estates into which it may have been divided, &c.;" and whereas the security of the public revenue requires that the said period of three years should be extended; the following rules have been enacted, to be in force from the period of their promulgation throughout the provinces immediately dependent on the presidency of Fort William.

II. Such part of Section xxv., Regulation XXV. 1793, Section ii., Regulation Regs. XXV. 1793, XXVI. 1795, and Section lv., Regulation XXVI. 1803, as determines the period of time within which it shall be competent for the Governor General in Council to order a revision of the jumma, with a view to the correction of frauds or errors committed in the original allotment of the jumma, is hereby rescinded.

III. Should it be proved to the satisfaction of the Governor General in Council, that any fraud or material error has been committed in the allotment of the jumma on lands ordered to be divided into two or more distinct estates from and after the date of this Regulation, within the term of ten years subsequent to the period at which such division and allotment may have been made, it shall be competent for the Governor General in Council to order a re-allotment of the jumma, on the principles established by the existing Regulations.

IV. *First.* The period of ten years shall be calculated from the date on which the partition of the lands and allotment of the jumma may receive the confirmation of the Board of Revenue or Board of Commissioners, according as the lands may be situated in the districts subject to the control of those Boards in all matters connected with land revenue respectively: and no such partition and allotment is to be considered to be final or valid (as is in substance provided by the existing Regulations), until it shall have been formally and expressly sanctioned by one or other of those authorities.

Tahoods and engagements not to constitute distinct estates until sanctioned by Government, &c.  
Commissioners.

*Second.* In like manner, tahoods executed for portions of estates, and the correspondent engagements, shall not be considered to constitute distinct estates, until the acceptance of them shall have been formally and expressly sanctioned by the Government, or the Board of Revenue, or Board of

\* Vide Reg. XIX. 1814, page 210.



## REGULATION XIX. OF 1814.

A REGULATION for reducing to one Regulation, with Alterations and Additions, certain Regulations respecting the Partition of Estates paying Revenue to Government: PASSED by the Vice-President in Council on the 17th September 1814.

I. WHEREAS difficulty has in many instances been experienced in providing fit persons to undertake the partition of estates paying revenue to Government, from the inadequacy of the remuneration prescribed in Regulation V. 1810, in some cases, particularly in instances when measurement of the land becomes necessary; and whereas it has been deemed expedient to make provision for defraying the expense attendant on such measurement, and for augmenting the remuneration to the ameen appointed to make the partition, in cases where the Board of Revenue or Board of Commissioners may consider such augmentation equitable; and whereas it will tend to the public convenience to reduce to one Regulation certain Regulations at present in force, respecting the partition of estates paying revenue to Government: the following rules have been enacted, to be in force from the period of their promulgation throughout the territories immediately dependent on the presidency of Fort William.

II. Regulation XXV. 1793, Regulation XXVI. 1795, Sections xii. and xiii. Regulations rescinded. Regulation I. 1801, Section xxix. and the remaining Sections of Regulation XXVI. 1803, Regulation VI. 1801, and Regulation V. 1810, are hereby rescinded.

III. The division of every zemindarry, independent talook, or other estate paying revenue immediately to Government, which may be ordered to be divided into two or more distinct estates, and the apportioning of the fixed jumma on the whole of the estate on the several shares, are to be executed under the superintendence of the Collector of the district in which the estate may be situated.

IV. *First.* If all the proprietors of a joint undivided estate shall be desirous to have their estate divided into two or more separate estates, they are to make a written application for that purpose to the Collector of the district, under their seals and signatures, and attested by four credible witnesses, specifying the shares which belong to them respectively, and whether they are desirous of having separate possession of their respective shares, or whether any two or more of them propose to hold their shares as a joint estate. On receipt of the written application above noticed, the Collector shall proceed to divide the estate into the number of shares requested, reporting the same to the Board of Revenue or Board of Commissioners, as the case may happen to be within the control of the one or the other of those Boards. All authorized expenses incurred in making the division are to be borne by the proprietors, in the proportion which the jumma of their respective shares, after the division has been completed, may bear to the jumma of the whole estate.

*Second.* If one, two, or more of the proprietors of a joint estate held in common tenancy shall be desirous to have separate possession of his or their respective share or shares, or if two or more of them shall be desirous to have their shares separated and to hold them as a joint estate, they are to make a written application for that purpose to the Collector, under their seals and signatures, and attested by four credible witnesses. The Collector, on receipt of the application, shall publish an advertisement, notifying the same to all parties concerned, and specifying that he shall proceed to make the division applied for in fifteen days from the date of the publication of the advertisement, unless any person or persons in possession of the estate, or any part thereof, shall, before the expiration of that time, deny, by a writing under his or their seals and signatures, and attested by two credible witnesses, the right of such claimant or claimants to the share or shares so claimed by him or them; in which case the Collector is not to proceed to the division until the disputed title be established in a Court of Justice, or admitted by the party or

parties so disputing it, by a writing to that effect under his or their seals and signatures, and attested by four credible witnesses.

*Third.* In the event of no denial being offered to the claim for separation in the form stated, and within the period limited in the foregoing Clause, the Collector shall proceed to make the division applied for in the mode hereafter described, reporting the same for the information of the Board of Revenue or Board of Commissioners, as the case may be; and all authorized expenses incurred in making the division are to be borne by the proprietors at large, in the proportions which the jumma of their respective shares, after the division has been completed, shall bear to the jumma of the whole estate. This last rule, however, is not to be understood to preclude the parties concerned from entering into a private adjustment among themselves of the proportions in which such expenses shall be severally borne by them; and whenever the whole amount demandable on that account shall be tendered to the Collector by one or more of the parties, he shall receive the same accordingly; and, on the contrary, if the amount be not so tendered, he is to enforce the rule as above laid down, and is to levy the amount (if it be not paid) by the same process against the sharer or sharers failing in the payment of their proportions as is prescribed for levying arrears of revenue.

Collector how to proceed when no objection is made.

Commissioners, as the case may be; and all authorized expenses incurred in making the division are to be borne by the proprietors at large, in the proportions which the jumma of their respective shares, after the division has been completed, shall bear to the jumma of the whole estate. This last rule, however, is not to be understood to preclude the parties concerned from entering into a private adjustment among themselves of the proportions in which such expenses shall be severally borne by them; and whenever the whole amount demandable on that account shall be tendered to the Collector by one or more of the parties, he shall receive the same accordingly; and, on the contrary, if the amount be not so tendered, he is to enforce the rule as above laid down, and is to levy the amount (if it be not paid) by the same process against the sharer or sharers failing in the payment of their proportions as is prescribed for levying arrears of revenue.

Foregoing rule applicable to portions of estates consisting of distinct mehals.

*Fourth.* The whole of the provisions of this Section for the division of estates held in common tenancy are to be considered equally applicable to the separation of portions of estates consisting of distinct mehals.

V. Whenever the Courts of Justice may pass a decree awarding to any person the proprietary right in a portion of an estate paying revenue to Government (whether fractional or consisting of specific lands), and may issue a precept to the Collector requiring him to divide the estate, and (provided it be not held khas or let in farm by Government) to put the parties in possession of the shares to which they may be entitled under the decree, they shall make it a general rule to direct, at the same time, that the party or parties who may have withheld the right so decreed shall defray the whole of the expense which may be incurred in the subsequent process of dividing, separating, and giving possession of, and apportioning the public revenue on the portion of the estate or lands so decreed. Provided, however, that if any special reasons shall appear for a deviation from this general rule, the Court shall be at liberty to direct the expense in question to be defrayed by all or any of the parties to the decree, in such proportions as the Court passing the decree may, from a consideration of the particular circumstances of the case deem equitable. Copies of all orders which the Courts may pass under this Section are invariably to be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him, requiring him to divide the estate, and to put the parties in possession of the shares to which they may be entitled under the decree.

VI. If two or more estates that may have originally formed specific and ascertained portions of the same zemindarry, talook, or chowdrai, shall come into the possession of one person, or if one, two, or more persons shall possess two or more shares of any such estate, such person or persons shall be entitled to have such shares united and to hold them as one estate. Application for the union of estates is to be made to the Collector of the zillah in writing, under the seal and signature of the proprietor or proprietors, and attested by two credible witnesses; and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his office, reporting the circumstance to the Board to which the case may appertain.

VII. When a division of an estate shall be ordered to be made, each of the Each estate to be as compact as possible. portions into which the property shall be directed to be divided shall be formed of entire, and (as far as the situation of the lands and other local circumstances may admit) contiguous mehals or villages, so that each estate may be as compact as possible. Provided that, if the property so

ordered to be divided shall not consist of a sufficient number of villages to admit of one or more whole village or villages being included in each estate, the division of the village or villages of which the property may consist is to be made so as to render each estate as compact as possible.

VIII. The public revenue shall be assessed on each estate into which the property shall be ordered to be divided in conformity with the rules prescribed in Regulation I. 1793, with respect to estates assessed upon each estate agreeably to the rules herein prescribed. Regulation XXVII. 1795, in the province of Benares; Regulation XXV. 1803, in the Ceded provinces; Regulation IX. 1805, in the Conquered provinces; and with Regulation XII. 1805, in the province of Cuttack: but

Rules for selecting the lands to be included in each estate. in selecting the mehals or villages to be included in each separate estate, the advantages or disadvantages arising from situation, the vicinity of roads or navigable rivers, the nature and quality of the soil and produce, the quantity of waste land, the depth at which water may be procurable, the number of tanks, the state of the embankments and water-courses, and every other local circumstance affecting the present or likely to influence the future value of the lands, are to be duly considered, and the mehals or villages to be included in each estate fairly and impartially selected accordingly.

IX. If a dwelling-house belonging to one sharer shall be situated in a mehal or village which may be included in the estate of another, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and ground immediately attached to it, upon paying to the proprietor of the mehal or village an equitable rent for the ground; and the limits of the ground, and the rent to be paid for it, shall be particularised in the paper of partition.

X. Tanks, reservoirs, water-courses, and embankments, shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of works of this nature, it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates, the paper of partition is to specify, as far as circumstances may admit, the proportion of the benefit which each estate is entitled to derive therefrom, and of the expense of the repairs with which it is to be charged.

XI. Places of worship that may have been held in common previous to the division of a zemindarry or other estate, shall be continued on the same footing, unless the parties shall otherwise agree amongst themselves, in which case they are to signify their determination in writing, to the ameen, who shall insert it in the paper of partition.

XII. When an estate shall be ordered to be divided, the Collector shall appoint Divisions of an estate a creditable ameen to make the division, who shall receive to be made by an ameen. a per-centage (as hereafter specified) on the amount of the jumma of the whole estate, as a remuneration for his trouble and the expense of establishment.

XIII. First. The Collector is empowered and directed to administer the following oath to be taken by the ameen. Oath to be taken by the ameen. making the division:—

"I, A. B., appointed to make the division of the estate of ———, in the zillah of ———, solemnly swear, that I will fairly and impartially, and as expeditiously as may be practicable, make the division of the property, and apportion the public revenue upon each distinct estate into which it is directed to be divided, to the best of my knowledge and judgment, according to the Regulations passed by the Governor-General in Council; that I will not, directly or indirectly, receive or allow any other person to receive any fee, present, or reward whatever, from any of the sharers, or any persons on their behalf, on account of the division of any matter connected therewith; that I will not derive any advantage or emolument from my appointment, excepting such as may be expressly allowed to me and be authorized by this Regu-

lation; and that I will deliver to the Collector all such papers and accounts as may come into my possession respecting the estate which I am appointed to divide."

*Second.* If the ameen shall be convicted before the Magistrate of the zillah of receiving or allowing any other person to receive, directly or indirectly, any money or effects, or other property, from the sharers, or from any person or persons on their behalf, in opposition to his oath, he shall be sentenced to pay a fine to Government of three times the amount of the money or value of the property so received by him, or by any other person with his permission, and to imprisonment not exceeding six months; and all prosecutions before the Magistrate under this Clause shall be for a criminal misdemeanor at the instance of the Collector of the district, through the vakeel of Government. It is, however, at the same time hereby further declared that the ameen shall be also liable to a suit for the same offence in the Dewanny Adawlut of the zillah, and shall on conviction be compelled to restore the money or property to the party from whom it may have been received, with all costs to the party prosecuting, and be imprisoned until he shall make good the decree, or the amount of it shall be liquidated by the sale of his property.

XIV. The Collector is to deliver to the ameen a sunnud of appointment under his official seal and signature, in which are to be specified the name of the estate, the names of the different sharers, their respective proportions, the number of separate estates into which the property is to be divided, and the shares included in each estate, together with a copy of the Regulations under which he is to make the division, and of any entries in the official records which may relate to the property to be divided.

XV.—*Repealed by Act XI, 1838.\**

XVI. Upon the arrival of the ameen on the spot, he is to survey in person the different parts of the property, so as to enable him to select the lands to be included in each estate, in conformity to the rules prescribed in sections vii. viii. ix. x. and xi.

XVII. *First.* The proprietors, or their local naibs or representatives, are to furnish the ameen with the accounts of the gross produce of each mehal and village, and all other accounts or information requisite to enable him to assess the public revenue on each of the estates into which the property is to be divided, in conformity to the rules prescribed in the present Regulation.

*Second.* The proprietors or their local naibs or representatives, are to swear to the truth of the accounts before the ameen; or if they shall be of the description of persons whom the Courts of Judicature are empowered to exempt from taking oaths, the Collector is to authorize the ameen to receive from them a solemn declaration to the truth of the accounts. If the proprietors shall omit to furnish the required accounts, the persons withholding them shall be liable to such daily fine until they produce them, as the Board of Revenue or Board of Commissioners, respectively, may judge it proper to impose, upon a consideration of the case and their situation and circumstances in life, and the amount of the fine shall be levied by the Collector by the same process as is prescribed for levying arrears of revenue.

*Third.* The proprietors, or their local naibs or representatives, are likewise to cause the putwarries and other zemindary officers to attend the ameen to explain the accounts, and furnish him with such information as he may require for dividing the estate and apportioning the public jumma, under the penalty of being fined in the same manner as for omitting to produce their accounts. Putwarries refusing to deliver their accounts, or otherwise acting contrary to the rules con-

\* Act XI. of 1838, (fees of Butwarra Ameens,) *vide* page 221.



tained in Section lxii., Regulation VIII. 1793, and the corresponding Sections in Regulations XXVII. 1795, and XXIX. of 1803, shall be proceeded against as there directed.

**XVIII.** When the ameen has completed the division of the property and allotted the public revenue on each estate, he is to submit to the Collector the papers of the division and allotment, which are to specify the names of the mehals or villages included in each separate estate into which the property may have been divided, the gross produce of each mahal and village for the three years preceding the year in which the division may be ordered to be made, and the proportion of the public jumma which he may have assessed thereon, with such observations regarding the manner in which he may have selected the lands included in each estate, and the accounts from which he may have apportioned the public revenue of them, as may be necessary for the information of the Collector, together with a detail of the adjustment which he may have made respecting the tanks, places of worship, or other matters specified in Sections ix. x. and xi. of this Regulation.

**XIX. First.** The Collector shall examine the documents which may be delivered to him by the ameen, and after receiving any objections or remarks which may be offered to him by the sharers in person or by their vakeels, he shall draw out a paper of partition, specifying the mehals or villages included in the several estates into which the property may have been divided, the gross produce of each mahal or village, the allotment of the public jumma upon each, the name or names of the proprietor or proprietors of each estate, and where an estate is to be held as the joint property of two or more persons, their respective shares in the estate, together with the stipulations which may have been made respecting any of the matters mentioned in Sections ix. x. and xi., and transmit a copy of the paper to the Board of Revenue or the Board of Commissioners, as the case may be, with such observations as may be necessary to enable them to judge whether the division of the property, and the allotment of the jumma on each estate into which it may have been divided have been made agreeably to the Regulations.

**Second.** Previously to forwarding the paper of partition as required by the preceding Clause, the Collector shall furnish the sharers, with a copy of it. In the event of the whole of the sharers by a written declaration under their seals and signatures and attested by four credible witnesses, declaring their satisfaction with the partition statement so communicated to them, or in the event of none of the sharers offering any objection thereto within fifteen days after they shall have respectively received the copies delivered to them, the Collector, on receipt of the general declaration of satisfaction in the former case, or in the latter, on the expiration of the period above stated, shall proceed to put the parties in possession of their respective shares, reporting the same to the Board of Revenue or Board of Commissioners, and submitting to them a copy and translation of the partition statement and allotment of the assessment: but such allotment of the assessment shall not be deemed conclusive until it shall have been confirmed by the Board of Revenue or Board of Commissioners, who are respectively authorized to make any alterations therein which may appear to them necessary for the purpose of carrying into effect the proportionate rule of allotment prescribed in the Regulation cited in Section viii. of this Regulation. The Board of Revenue and Board of Commissioners are severally empowered to confirm or make such alterations in the division of the property and the allotment of the public revenue on each estate, or other matters specified in the paper of partition, as may appear to them proper, except in cases of a reduction of the fixed assessment. The Board of Revenue and Board of Commissioners may order further inquiries to be made before they pass their determinations on the division, in cases in which it may appear to them necessary.

**Third.** In the event of any objections to the partition statement being offered by the sharers, or any one of them, within the period of fifteen days specified in the preceding Clause, the Collector shall not put the parties in possession, but shall transmit without

delay a copy and translation of such objections to the Board of Revenue or Board of Commissioners, together with a copy and translation of the partition statement, and of the whole, or such part of the ameen's report as may be applicable to the points objected to, and such further information as may be necessary to enable the Board to form a satisfactory opinion on the case.

**XX. First.** The determination of the Board of Revenue or Board of Commissioners on the paper of partition shall be final; and the Collector, on receiving notification thereof, shall put the parties in possession of their respective estates, and immediately make the necessary entries in the records of his office, after comparing the documents delivered by the ameen with the former entries regarding the estate, and correcting or supplying any errors or omissions which may be discovered in those entries.

**Second.** No objections from the sharers to the partition communicated to them by the Collector in the first instance, shall be received by the Board of Revenue or Board of Commissioners after the prescribed period of fifteen days, without good cause for the delay being shown to their satisfaction.

**Third.** Whenever the objections to the Collector's partition which may be preferred to the Board of Revenue or Board of Commissioners shall clearly appear to be groundless, vexatious, and litigious, it shall be competent to the Board of Revenue or Board of Commissioners to impose such fine upon the defaulter as may be deemed proper, on consideration of the circumstances of the parties and the nature of the case. Such fine shall be recovered by the same process as is prescribed for the recovery of arrears of revenue.

**XXI.** If any of the sharers in a joint undivided estate shall by withholding the requisite accounts and papers, or by any other voluntary act, impede or oppose the division of the estate, when the same may have been ordered and proceeded upon in the mode prescribed by the Regulations, the party or parties so offending shall, on the report of the Collector to the Board of Revenue or Board of Commissioners, as the case may be, be liable to such fine as the Boards respectively, on consideration of the circumstances of the case, may judge proper to impose, and the fine so ordered shall also be levied in the mode prescribed by the Regulations for the recovery of arrears of revenue. It is hereby further explained that whenever a daily fine may be imposed under any part of this Regulation, for the purpose of causing the delivery of accounts otherwise, and such fine may be imposed by the Collector, the operation of such daily fine (provided it be approved by the Board of Revenue or Board of Commissioners as the case may be), or of such part thereof as may receive their approbation, shall commence from the date when the fine may have been first notified to the party on whom it is imposed; unless, in any case, it should be otherwise ordered by the Board of Revenue or Board of Commissioners, or be otherwise provided by the original order of the Collector.

**XXII.** In the cases specified in Clauses First and Second, Section v. of this Regulation, if all the proprietors of the estate to be divided shall agree to make the division themselves, and to allot the public jumma upon each estate and to adjust all other matters respecting the division agreeably to the Regulations, they shall present a petition to that effect, under their seals and signatures and attested by four credible witnesses, to the Collector, who shall issue directions to the ameen accordingly. But the proprietors shall produce the required accounts before the ameen, and swear or subscribe a solemn declaration to the truth of them; and the division of the lands, and apportioning of the jumma, and every other matter relating thereto, shall be settled in the presence and subject to the inspection of the ameen, who shall be responsible for the Regulations being in every respect observed. In like manner, if all the proprietors of the estate which may be ordered to be divided in the cases specified in the foregoing Clauses and Section, shall agree to refer the division of the estate,

and the apportioning of the public jumma and the adjustment of all other matters respecting the division, to an arbitrator or arbitrators, they shall present a petition to that effect to the Collector, attested by four credible witnesses, and specifying the name of the arbitrator or arbitrators whom they may choose, and where two or more arbitrators are chosen, the name of the umpire. Upon the receipt of the petition, the Collector shall direct the ameen to cause the parties to execute arbitration bonds. The proprietors shall produce the necessary accounts before the arbitrators, and swear, or subscribe a solemn declaration to the truth of them, before the ameen; and the division of the lands, and the allotment of the jumma, and every other matter relating thereto, shall be settled by the arbitrator or arbitrators, in the presence and subject to the inspection of the ameen, who shall be responsible for his or their proceeding according to the Regulations. When the sharers, or the arbitrator or arbitrators in the cases above specified, shall have adjusted the division of the property and the allotment of the public jumma on each estate, and all matters relating thereto, and the whole shall have undergone the revision of the ameen, he shall submit all the documents and papers specified in Section xviii. of this Regulation to the Collector, who upon the receipt of them shall proceed in the same manner as if the division had been made without the interference of the parties, or the arbitrator or arbitrators; and all the rules contained in this Regulation regarding divisions made solely by the ameen, shall be held applicable to divisions made by the parties or arbitrators under this Section.

**XXIII.** All the rules prescribed in this Regulation which relate to the expenses incurred in making a partition, shall equally apply to the remuneration of the ameen who may be appointed to superintend the partitions made by the parties themselves or their arbitrators, under the provisions contained in the preceding Section; but with this difference, that the ameen employed in superintending such private partitions shall only be entitled to receive one-half of the amount of remuneration which the ameens employed in making public partitions are entitled to under Section xv. of this Regulation.

**XXIV.** To remove, as far as may be possible, every inducement to fraud or partiality in the division of landed property, it shall be a rule that, where two or more of the estates shall consist of the same proportions of the whole property divided, the parties entitled to them shall (excepting in the case subsequently specified) draw lots for the divisions in the public cutcherry, before the Collector, who shall be held responsible that in drawing the lots no unfair means are practised. Agreeably to this rule, if any landed property shall be ordered to be divided into four estates, each consisting of a four-annas share or four-sixteenths, or into three estates, one consisting of an eight annas share or eight-sixteenths, and the other two each of four annas or four-sixteenths, of the whole property, after the division and allotment of the public revenue and every other matter relating to the division shall have been finally adjusted, the proprietors of the four shares in the first case, and of the two four-annas shares in the second, shall draw lots for the divisions, unless they shall settle amongst themselves which division of the property each party is to receive, and present a petition to the Collector under their respective seals and signatures, and attested by two credible witnesses, specifying the divisions which each of them may have agreed to take; in which case the Collector shall put them in possession of the divisions which they may respectively select.

**XXV.** To guard against collusion or error in the distribution of the public jumma on landed property which may be ordered to be divided into two or more distinct estates, it is declared, that if it shall be proved to the satisfaction of the Governor General in Council, within ten years after confirmation of the partition as prescribed in Section iii., Regulation X. 1811, that the jumma was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment of the jumma upon the several estates into which it may have been divided, conformably to the principles prescribed in the Regulations cited in Section viii. of this Regulation, an estimate of the gross produce of each estate at the time of the division

How the ameen employed in superintending private partitions is to be remunerated.

Cases in which the sharers are to draw lots for the lands that are to form their respective estates after the division is finally adjusted.

Power to Governor-General in Council of ordering a new allotment of the public jumma, &c., in cases of fraudulent or erroneous allotment.



to be made agreeably to the best evidence and information which may be procurable respecting it; and further, of ordering the parties whose estates may appear to have been under-assessed to pay the sharers upon whose estates the assessment may have been excessive, the sum of which they may be found to have been defrauded by the over-assessment, and in the event of their omitting to discharge the amount, to cause it to be levied by the Collector by the process prescribed for the recovery of arrears of revenue.

XXVI. If any of the sharers in landed property ordered to be divided, from indisposition or other cause, shall be unable or shall not choose to attend the Collector or the ameen in person, in the cases required, they shall depute a vakeel duly appointed with powers to perform all such acts as they themselves are authorized or required to perform under this Regulation, until the division of the property shall be finally adjusted.

Parties not attending in person to appoint vakeels with full powers to act for them.

XXVII. If all the sharers in landed property ordered to be divided shall be females not deemed competent to the management of their own estates, or minors, or persons otherwise disqualified for the charge of their own lands, the Collector shall report the same to the Board of Revenue or Board of Commissioners, who are enjoined to be careful that the rights of such proprietors are duly attended to in the division. In instances where more proprietors than one possess an undivided estate, and part of such proprietors shall come under any of the descriptions of disqualified landholders above-mentioned, having guardians, such guardians shall vote and act for them in all matters relating to the division of their lands under this Regulation.

Board of Revenue, &c., to take care that the rights of females and other disqualified landholders are duly attended to in divisions.

XXVIII. Landed property, for the payment of the public revenue assessed upon which engagements have been or may be concluded with the proprietors, and which may be ordered to be divided under this Regulation, shall remain under charge of the manager appointed by the proprietors of joint undivided estates; and the whole of it shall be held answerable for the payment of the public revenue assessed upon it (except in the cases hereafter specified) until the division shall have been finally adjusted and ratified, and the proprietors put into possession of the distinct estates into which it may be ordered to be divided.

XXIX. In cases where the landed property to be divided is held khas or let in farm by Government, the partition, inasmuch as regards the allotment of the lands, shall be made agreeably to the rules prescribed in this Regulation, as far as they may be applicable to lands so circumstanced, and the farmer or the native Collector of the revenue on the part of Government shall produce all the accounts and papers which he may possess respecting the lands, upon receiving a requisition to that effect from the ameen. Such property, when divided, will be subject to the rules contained in the Regulations cited in Section viii. of this Regulation.

XXX. In order to obviate doubts respecting the descriptions of joint estates to which the several provisions contained in this Regulation are meant to be applied, it is hereby explained that the whole of the said provisions are applicable to joint estates held in common tenancy, *viz.* where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands or mehals forming part of the estate held under one general assessment. Many of these provisions, however, such as those which direct a compact division of the lands, the selection of lands of equal value for the several sharers, and other circumstances relative to an equal partition of the estate, have evidently an exclusive reference to the division of landed property between tenants in common or copartners with equal rights in every part of the estate, and cannot be applied to portions of estates consisting of specific mehals or lands held by purchase, or otherwise, from the former proprietor, and separable from his estate under the Regulations, subject to a proportionate allotment of the public assessment conformably to the rules prescribed in the Regulations cited in

Regulation applicable to joint estates held in common tenancy, &c.



Section viii. of this Regulation, but remaining annexed to the original estate, until the distinct assessment of the separable portion shall have been adjusted and separately engaged for. In such cases, the provisions in this Regulation which respect the adjustment of the assessment, the accounts to be delivered and examined for this purpose, the responsibility of the whole original estate until a distribution of the assessment shall have been finally determined and ratified, and the power which the Governor General in Council reserves to himself of ordering a new allotment of the assessment, in the event of its being proved to his satisfaction, within ten years, that the allotment made was fraudulent or erroneous, are alone to be considered applicable with the further provisions contained in the present Regulation. But all new allotments of the assessments in the cases here referred to, as in all other cases whatever, shall be reported for the sanction of the Board of Revenue or Board of Commissioners, and shall not be deemed conclusive or valid until confirmed by those Boards, or in the event of any reduction of the fixed assessment, until approved by the Governor General in Council.

XXXI. After the date of this Regulation, a register according to the annexed form shall be kept in the English language of all confirmed

A register of all confirmed partitions to be kept. Collector to report in cases requiring a sale of lands for balances arising from an improper allotment of the jumma within ten years.

partitions. This register shall merely show the name, the recorded proprietor or proprietors, and the jumma of the estate as it stood when the partition was commenced, with the names, the recorded proprietors, and the jumma of the several portions thereof made into distinct estates by the partition when confirmed, together with the date of the confirmation; and whenever any such distinct estate (created

by partition) shall fall in balance, so as to require a sale of the land for the discharge of the arrear at any period within ten years of the date of the confirmation of such partition, it shall be the duty of the Collector, by every means in his power, to trace the cause of such balance towards ascertaining whether it has arisen from any fraudulent or erroneous allotment of the assessment at the time of the division, and whatever may appear to be the cause, to make a special and full report upon the case to the Board to whose authority he may be subject, and who will determine, upon the receipt of such report, whether the sanction of the Governor General in Council shall be obtained for directing a new allotment of the jumma upon the several portions into which the original estate was divided, or otherwise.

XXXII. With the view of discouraging all artificial delays in giving possession

Rules for discouraging all artificial delays from impediments thrown in the way by parties.

of their proper shares to sharers entitled to separation in joint estates held in common tenancy, it is hereby enacted, that whenever it shall appear to the Board of Revenue or Board of Commissioners, that a partition duly proceeded upon is not or cannot be completed within the period

originally fixed in the sunnud to the ameen, by reason of any impediments thrown in the way of its completion by the party or parties holding possession of the estate, it shall be competent for those Boards, respectively, upon an application being preferred to them to that effect by the sharer who is out of possession (either through the Collector or directly to the Board), to direct immediate possession to be given to such sharer of a certain quantity of the lands of the estate, the assets of which shall be just sufficient (as far as the same can be ascertained) to produce the amount of the jumma payable by such sharer when separated (and which in all cases of fractional shares is of course known), with an advance of from fifteen to twenty per cent. (*viz.*, ten per cent. for malikana, and not less than five nor more than ten per cent. for charges of collection), and no more. This possession is not however, to be considered as a final allotment, but the partition is still to proceed in the regular manner, with the view to the adjustment of any inequalities of proportion which the assets of the lands thus delivered to the possession of the sharers may be ultimately found to bear to the assets of the estate at large, as well as the adjustment of all other points affecting the value of the several shares when divided, so that on the completion of the partition the final allotment of land to the several parties, separated according to the jumma payable by them may in every respect be conformable to the rules prescribed in Sections vii. and viii. of this Regulation.

XXXIII. Whenever the partition of a joint estate held in common tenancy shall have been commenced or ordered to be made, whether on the direct application of the parties to the Collector, or under a precept from a Court of Justice, if the estate should fall in balance at any time before the partition be completed and confirmed, it shall be in the option of any one or more of the sharers (whether in actual possession of their shares or otherwise) to tender to the Collector his or their proportions of the balance due, which the Collector shall receive and pass to the credit of his or their shares accordingly; and in the event of a sale of any part of the estate (yet undivided) becoming ultimately necessary for the liquidation of any remaining balance, the portion or portions of the defaulting sharer or sharers only shall be sold, and not those of the sharers who shall have paid their proportions of the balances; and, in all such cases, the partition shall go on and be completed for the benefit of the purchaser at the public sale, and who, on making the purchase, will be entitled to separate possession of the portion or portions of the estate which would have been allotted under the partition to the defaulting proprietors (and which in all such instances are to be sold entire), and will in every respect succeed to all their rights.

XXXIV. *First.* To provide also, as far as practicable, against any injurious consequences to individuals from delays and difficulties which are observed to attend the allotment of the public revenue upon specific mehals forming part of an estate held under a general assessment, when ordered to be separated therefrom, the following rules are to be observed in regard to such mehals.

*Second.* Whenever the proprietor of a specific mehal in a joint estate shall be entitled to separation under the Regulations and the allotment of the public revenue upon such distinct mehal shall have been commenced upon, or ordered to be commenced upon, if the estate of which it forms a component part should fall in balance at any time previous to the completion and confirmation of such allotment, so as to require a sale of the whole or any portion of the estate, it shall be in the option of the proprietor of the mehal in question (and to whom immediate possession thereof is to be given, if it be not already in his possession), to tender to the Collector his share of the balance due, calculated on the proportion which the produce of such specific mehal, with a deduction of from fifteen to twenty per cent. (*viz.*, ten per cent. for malikana, and not less than five or more than ten per cent. for charges of collection) may bear to the jumma of the whole estate. Upon such tender being made and the Collector being satisfied, from the inquiries made by him and the evidence and documents before him, that the produce of the mehal has not been underrated, he shall receive the amount tendered and pass it to the credit of the mehal accordingly; and in the event of a sale of any part of the estate becoming ultimately necessary for the liquidation of any remaining balance, such sale shall be made with the expressed exception of the specific mehal in question, and the separation and final allotment of the jumma thereupon shall go on and be completed in the prescribed manner, for the benefit of all the parties concerned therein. Provided, moreover, that if the payment made by the proprietor of the specific mehal under this Clause shall, on a final adjustment of the jumma of the parties, be found to exceed the true proportion of the balance demandable from him, such proprietor shall be entitled to repayment of the excess from the Collector, who shall at the same time proceed to recover the amount thereof from the defaulting proprietor or proprietors (upon whom a less amount than their just proportions will have been levied) by the same process as he would recover any other arrear of revenue; or if it shall, on the contrary, appear that the proprietor of the specific mehal has paid less than he ought to have paid, the deficiency shall be recovered from him, and any excess which may have been levied from the defaulting proprietor or proprietors shall be made good to them.

XXXV. In the execution of the duties vested in the Board of Revenue and Board of Commissioners by this Regulation, as in all other cases, they shall be guided by whatever special orders or instructions they may at any time receive from the Governor General in Council, to whom they shall apply in all cases which they may consider unprovided for by the Regulations.

Board of Revenue, &c.,  
to be guided by special  
orders from Governor-  
General in Council.



## ACT No. XI. OF 1838.

1.—*Regulation XIX. 1814 repealed.*

2.—*The Sudder Boards of Revenue at Calcutta and Allahabad, with the sanction of the local Governments, may fix the remuneration of persons effecting partition, and cause the same to be levied as an arrear of Revenue, at such periods, and in such proportions, as the said Boards may severally think fit.*

I. It is hereby enacted, that Section xv. Regulation XIX. of 1814, of the Bengal Code be repealed.

II. And it is hereby enacted, that it shall be lawful for the Sudder Board of Revenue at Calcutta, with the sanction of the Governor of Bengal, and for the Sudder Board of Revenue at Allahabad, with the sanction of the Functionary exercising the Authority of Government in the North-Western Provinces, to fix the remuneration of an Ameen, or other person employed to effect a partition of an estate under the Regulations enacted for that purpose, and to cause the same to be levied from the parties concerned in the same manner as an arrear of Revenue, at such periods, and in such proportions, as the said Boards may severally think fit.



## RULES CONCERNING THE DIVISION OF ESTATES.

PRESCRIBED BY THE BOARD OF REVENUE, L. P.

I. A Collector has no authority to reject a duly attested application for the partition of an estate on account of any outstanding balances against the estate, but must proceed at once to carry out the provisions of Regulation XIX. of 1814.

II. The preliminary report to be forwarded by Collectors to Commissioners under Clauses 1 and 3, Section iv., Regulation XIX. of 1814, must be drawn up in the form appended to these Rules.

III. Commissioners of Revenue are competent to authorize the entertainment of the necessary establishment for the partition of an estate, and to fix the amount of remuneration to be allowed, furnishing Quarterly Statements of such Establishments for the eventual sanction of the Board, in the prescribed Form (No. 6, Periodical Returns.)

IV. The expenses likely to be incurred in making the division of an estate, must be estimated by the Collector at the time of passing the order for its division. This estimate should be based on a consideration of the time likely to be occupied in completing the partition, and the number of hands to be employed in measuring the lands and preparing the necessary papers, in addition to a fair remuneration to the person entrusted with the superintendence of the work. The extent and value of the property must of course be kept in view in this calculation, and for information on all these points, the Collector must consult the applicants for partition and his own records. It is left to the discretion of the Collector to decide, whether the amount estimated as above, shall be collected from the Proprietors at once or by instalments, and in the latter case, by how many instalments.

V. The amount and time of collection being determined, notices must be served on the Proprietors, (the expense of which must be included in the estimate,) informing them of the fact of a division having been applied for, and of their liability in consequence of their interest in the estate (which must be stated) to pay their quota of the expense, and calling upon them to do so within a given time, say thirty clear days from the serving of the notice, and warning them that otherwise their rights and interests in the estate will be liable to sale for the realization of their quota. This notification is also to be published by beat of drum throughout the villages of the estate, and fixed up in any market places upon the estate, and at the chief rent-office of the estate, the receipt of the village head-man, and in Behar of the patwari being taken and filed with the papers of the case. The notification should also be forwarded for publication to the Courts of the Judge of the district and of the Moonsiff in whose jurisdiction the estate is situate. If the proprietors appear in the interim, and deny that they are liable for the amount charged to them, the Collector must enquire into and decide on their objections. Should disputes arise as to the extent of the interest of sharers other than the applicants for division, (the extent of the share or shares upon which the division is to take effect, not being questioned, and, consequently, no obstacle existing to the progress of the division), the shares regarding which disputes exist must be held *jointly* responsible for the quota of the expenses with which they are charged.

VI. The expenses of a division are realizable as arrears of revenue, and when it may be necessary for the Collector to proceed to a sale for the realization of any share of such expenses, he must sell under Section v., Act XI. of 1859.

VII. In the Statement of Partition Establishments under Act XI. of 1838 authorized by the Commissioners, it is necessary to specify the periods at which, and the proportions in which, the remuneration of the ameen employed to effect the partition of each estate included in the Statement is proposed to be levied from the parties concerned, that the sanction of the Board may be accorded thereto.

VIII. Collectors are allowed to exercise a discretion as to requiring security for the faithful performance of his duties from the superintendent of a partition and the ameens employed under him. When the estate is small, no security need probably be taken.

IX. In disbursing the money collected for expenses, the Collector should withhold, till confirmation of the division, a part of the remuneration from the person entrusted with the superintendence of the division, and a portion of the wages payable to those employed in measuring the lands of the estate, which will be declared forfeited in whole or in part, in case of neglect or fraud being established against either of those parties.

X. When the superintendent submits the measurement papers with the rates at which he has valued the lands, the Collector should invariably obtain from the proprietors of all the shares either a statement of their acquiescence in the proceedings of the superintendent, or of their objections thereto.

XI. An estate is to be considered under division from the date of the proceeding held by the Collector, which directs, in conformity with Clauses 1 and 3, Section iv., Regulation XIX. of 1814, or in obedience to a precept from a Civil Court, that a division of the estate shall be made, and co-sharers are entitled from that date to the protection afforded them under Sections xxxiii. and xxxiv. of the said Regulation, should the estate be brought to sale for arrears accruing during the progress of the division.

XII. For balances which have accrued previous to the above date, the co-sharers are jointly responsible, and the entire estate may be sold for their recovery if not otherwise realized. It is therefore the duty of the Collector to ascertain and record the amount of these balances, current and arrear, immediately after he passes an order for bringing an estate under division, and to proceed, if necessary, to the sale of the estate just as if no application for division had been made.

XIII. It behoves Collectors to be very careful in the observance of the foregoing rule, for when a division is submitted for confirmation it must be certified by the Collector, that no balances for any period antecedent to the date of the order for dividing the estate, are outstanding against it; and as, after the partition has been confirmed, the estate cannot be sold for the recovery of such arrears, the Collector will be held personally responsible for the correctness of his certificate.

XIV. Should an estate while under division, fall into arrears, the whole estate, bearing the whole Government Revenue, must be advertized in one lot, but should the Proprietor or Proprietors of any of the portions into which the estate is to be divided, pay his or their proportion of the balance due, (advertence being had to the provisions of Section xxxiii., and Clause 2, Section xxxiv., Regulation XIX. of 1814,) his or their interest, whether share or specific lands, must be exempted from sale, notice of such exemption being inserted in the advertisement, and only the share or shares, land or lands, still in balance, must be sold, in one lot, and without specification of Revenue. The purchaser of the share or shares, land or lands sold, will succeed to the exact place, interests and rights of the former Proprietor or Proprietors.

XV. When the term allowed for appeal from the Collector's proceedings is not prescribed by law, as it is in Sections xix. and xx., Regulation XIX. of 1814, the period within which an appeal lies to the Commissioner from orders passed by a Collector in division cases, is limited to one month.

XVI. Commissioners of Revenue, in forwarding to the Board appeals presented to them against their own orders in division cases, must, as an invariable rule, transmit, with the native records of the case, a report in English on the petition of appeal in the prescribed form. This rule is not affected by the second Rule of Practice.

XVII. Whenever the lands of a village are divided, a map showing the distribution of the lands amongst the several sharers, should always form part of the proceedings.

XVIII. The fee of one quarter per cent. on the annual Government Revenue of the estate, leviable on the completion of a division under Clause 2, Section ii., Regulation XV. of 1797, must in all cases be exacted, and the amount thus realized, must be entered in Register, No. 56, Column 3, (Revenue Forms.)

XIX. Immediately upon the confirmation of a partition, the Collector is to enter separately on the Towjith of the District, with a distinct and separate number, each separated share which has thus become an estate. One share (the parent one, if the original estate be not entirely broken up,) will retain the original number; the



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## CHAPTER V.

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### COURT OF WARDS.

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## CHAPTER V.

### REGULATION X. OF 1793.

A REGULATION for re-enacting, with Modifications, the Rules passed by the Governor-General in Council on the 15th July 1791, and subsequent Dates, for the Establishment and Guidance of the Court of Wards, relative to disqualified Landholders and their Estates: PASSED by the Governor-General in Council on the 1st May 1793.

I. By the rules prescribed in Regulation VIII. 1793, for the decennial settlement of Bengal, Behar, and the Company's districts in Orissa, females (with the exception of those whom the Governor-General in Council may deem competent to the management of their own estates), minors, idiots, lunatics, contumacious persons, and persons of notorious profligacy of character, who, not being partners with others of a different description, are or may be proprietors of entire estates paying revenue immediately to Government, are declared incapable of having any concern in the management of their lands; and it is to be understood, as the evident meaning and intention of part of these exceptions, that they include all proprietors of entire estates paying revenue immediately to Government, who are or may be rendered incapable of managing their lands, by natural defects or infirmities of whatever nature. The lands of persons coming within the above descriptions are to be managed, for the benefit of the proprietors, by persons appointed to the trust by Government, in the manner hereafter specified. The Governor-General in Council, advertng also to the many instances which have occurred of minors, females, and other proprietors of land, of the descriptions above-mentioned, being reduced to ruin by the misconduct of the agents to whom the management of their concerns has been committed, as well as to the frequent instances of minors being brought up in ignorance and dissipation by the persons entrusted with the care and education of them, with a view to engross the management of their affairs when they might come of age, determined on the 20th August 1790, to constitute the Board of Revenue a Court of Wards, with powers to superintend the conduct and inspect the accounts of the managers of estates of persons disqualified for the management of their own lands, by the rules prescribed for the decennial settlement, and with instructions to see that minors received an education suitable to their rank and circumstances in life, and such as might qualify them for the future management of their own concerns. For the guidance of the Board of Revenue in their capacity of a Court of Wards, as well as of the officers acting under them in this capacity, certain rules were enacted on the 15th July 1791. Those rules, with the subsequent amendments and further modifications, are now re-enacted.

II. The superintendence of the Court of Wards extends to the persons and estates of all proprietors disqualified under the rules prescribed for the decennial settlement, for the management of their own lands; viz., all proprietors of entire estates paying revenue immediately to Government, who are or may be females not deemed by the Governor-General in Council competent to the management of their own estates; minors, idiots, lunatics, or others, rendered incapable of managing their estates by natural defects or infirmities of whatever nature; as well as all proprietors of such estates, who are or may be deemed disqualified, on account of contumacy or notorious profligacy of character. To prevent misconstruction, it is declared that, by the terms "all proprietors of entire estates paying revenue immediately to Government," are meant every such disqualified person who may be the sole proprietor of an estate, and any two or more persons, being proprietors of the whole of an estate, both or all of whom may be so qualified.

To whom superintendence of Court of Wards extends.

III. The superintendence of this Court is not to extend to proprietors of estates not paying revenue immediately to Government, nor to joint proprietors of estates paying revenue immediately to Government, both or all of whom may not be of the descriptions specified in Section ii. The disqualifications in the rules prescribed for the decennial settlement do not include the former; and the latter are required thereby to elect a joint manager, in the choice of whom those who are themselves unable to vote are allowed a voice through their guardians. To such proprietors, managers, and guardians, this Regulation is in no respect to be held applicable.

IV. The Collectors of the Revenue are to ascertain and report to the Board of Revenue, both now and hereafter, what proprietors in their respective zillahs may come within the descriptions of disqualified landholders specified in Section ii; and the following rules are prescribed for ascertaining the existence of the stated ground of disqualification in the first instance, and also for enabling proprietors of certain descriptions, who may have been declared disqualified, to recover the management of their estates when the ground of their disqualification may be removed.

V.\* *First.* If a proprietor of land shall be reported disqualified solely from being a female, the Board of Revenue, in their capacity of a Court of Wards, shall immediately proceed to take the estate under their care, reporting the circumstance to the Governor-General in Council, who reserves to himself the power of declaring any female proprietor, whom he may deem competent to the management of her own estate, exempt from the operation of this Regulation.

*Second.* If a Collector shall report a proprietor of land to be disqualified on the ground of minority, the Board of Revenue, in their capacity of a Court of Wards, provided they shall see no reason to doubt the nonage of the proprietor, are to take the estate under their care, and report the circumstances to the Governor-General in Council. If a Collector shall report any proprietor to be a minor, and the proprietor, or any person on his behalf, shall deny that he is under age, such proprietor or person shall be at liberty to represent the circumstances to the Court of Dewanny Adawlut of the zillah wherein the estate may be situated, the Judge of which shall forward the representation to the Sudder Dewanny Adawlut, which Court shall issue a precept, under the seal of the Court and attested by the Register, to the Judge of the zillah, or to the Provincial Court of Appeal of the division, to call the proprietor before the Court, and ascertain his age by the evidence, on oath, of not less than three credible persons well acquainted with him, and also by such other inquiries as may appear to the Court calculated to ascertain the truth, and certify its proceedings, including any representations or evidence that the proprietor, or any person on his behalf, may have to adduce, with its opinion on the case, to the Sudder Dewanny Adawlut, which Court shall determine whether such proprietor be a minor or not. The decision of the Sudder Dewanny Adawlut shall be final, and the Court shall certify a copy of its decision to the Governor-General in Council, who will order the estate to be put under the charge of the Court of Wards or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be a minor or otherwise.

*Third.* If a proprietor of land shall be deemed disqualified on the ground of Lunatics or others disqualified by natural defects or infirmities, lunacy, idiotism, or other disqualifying natural defect or infirmity, the Board of Revenue are to order the Collector to represent the circumstances, through the vakeel of Government, to the Court of Dewanny Adawlut of the zillah, the Judge of which shall transmit a copy of the representation to the Sudder Dewanny Adawlut. This Court shall issue a precept to the Court of Appeal of the division or to the Judge of the zillah within the jurisdiction of which the proprietor may reside, to bring him before the Court, to ascertain his actual state by ocular proof; and the Court shall further take the declaration upon oath of no less than three credible persons acquainted with the party, setting forth their opinion of his condition, with the grounds of it. The Court is to transmit all its proceedings, with its opinion on

\* Partially repealed by Sec. i., Act XXXV. 1858, *vide* page 241.

the case, to the Sudder Dewanny Adawlut, which Court shall determine finally whether the stated ground of disqualification be well founded or not, and certify a copy of its decision to the Governor-General in Council, who will order the Court of Wards to take the estate of the proprietor under their care or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be disqualified or otherwise.

*Fourth.—Rescinded by Section ii., Reg. VII. 1796.\**

*Fifth.* Persons not born in a state of idiotism, but who may have been declared by the Sudder Dewanny Adawlut disqualified as lunatics, are to be produced annually before the Judge of the Dewanny Adawlut in the jurisdiction of which they may reside, or oftener if he shall think fit, in order to ascertain whether they be restored to sanity or otherwise; and if, in any instance, the ground of disqualification shall appear to the Judge to be completely removed, he shall immediately report the same with a full relation of the circumstances of the case, to the Sudder Dewanny Adawlut, which Court shall finally determine whether the ground of disqualification be removed or not. The Court is to communicate its decision to the Governor-General in Council, who will order the Court of Wards to deliver over charge of the estate to the proprietor or not, according as the ground of his disqualification may be adjudged by the Court removed or otherwise.

*Sixth.*—Any persons who may have been adjudged disqualified, on any of the grounds specified in Clause Second, Third, or Fourth, and who may deem the ground of his disqualification removed, shall be at liberty to represent the circumstances to the Judge of the Dewanny Adawlut of the zillah, who shall forward the representation to the Sudder Dewanny Adawlut. This Court shall issue a precept to the Judge of the Zillah Court, or to the Provincial Court of Appeal of the division, to inquire into the case, and to receive such evidence as the disqualified proprietor may have to offer in support of his representation. The Court is to report the result of its inquiry, with its opinion thereon, to the Sudder Dewanny Adawlut, which Court shall determine finally whether the ground of disqualification be or be not removed, and report its decision to the Governor-General in Council, who will order the Court of Wards to restore the proprietor to the management of his lands or not, according as the ground of disqualification may be adjudged by the Sudder Dewanny Adawlut to be removed or otherwise.

VI. The trusts of manager for disqualified landholders, and of guardian to them, are to be considered altogether distinct, but, as hereafter specified, they may in some instances be vested in the same person; and the rules contained in the following Sections, relative to managers and guardians respectively, are founded on this distinction.

What to be entrusted to manager and guardian when different persons.

VII. Where the trusts of manager and guardian are vested in different persons, the former is to have the care of the estates real and personal; the latter, the care of the person, maintenance, and, if a minor, the education of the ward.

*VIII.—Rescinded by Sec. xxvi., Reg. VII. 1799.†*

Security to be given and obligation to be executed by managers.

IX. The manager, previous to the receipt of his commission, is to give security for his appearance during the continuance of it, and is to execute the following obligation:—

“I, A. B. having voluntarily taken on myself the management of the estate of C, disqualified proprietor of D, do hereby solemnly promise and engage to manage the said estate diligently and faithfully for the said proprietor; to use every means in my power to improve the same for his or her benefit; and to act, in every respect, to the best of my judgment, for his or her interest, in like manner as if the estate were my own, and I were acting for myself. I also promise and engage to render a

\* Reg. VII. 1796, *vide* page 237.

† Reg. VII. 1799 *vide* Chapter VI.

true and just account of whatsoever may be received by me from or on account of the estate committed to my management ; and in the event of its being proved that I have been guilty of any embezzlement, or of any abuse of trust, injurious to the property of the above-mentioned proprietor, I do hereby bind myself, my heirs, and successors, to make good treble the amount of the embezzlement or injury so proved against me. I further promise and engage to adhere strictly to such Regulations as may be passed for the guidance of managers by the Governor-General in Council, and to such orders as I may receive from the Court of Wards, and to derive no personal advantage whatever, directly or indirectly, from the trust committed to me, beyond the allowance by them granted to me."

X. An allowance to the manager, proportionate to the extent of his trust and adequate to a full compensation for his trouble, is to be proposed by the Collectors, and fixed by the Court of Wards : and if it be proved to the satisfaction of the Court of Wards, that any manager shall have appropriated to his own use, directly or indirectly, any sum of money, or other property, above his fixed allowance, he is declared liable for such embezzlement to the fine specified in his obligation, besides dismissal from his trust ; and the fine is to be appropriated to the benefit of the estate under his charge.

XI. An establishment of necessary officers, to act under the manager, is also to be proposed by the Collectors and fixed by the Court of Wards. The persons to be employed on this establishment are to be nominated by the manager himself, but approved by the Collector, who may object to such as may appear to him disqualified by character or otherwise, and require the manager to appoint others. These orders are to be considered applicable to the manager's sudder establishment, and also to his mofussil establishment, in estates of considerable extent, where mofussil officers may be necessary. Any officer, sudder or mofussil, who may be proved, to the satisfaction of the Court of Wards, to have appropriated to his own use, directly or indirectly, any sum of money, or other property, beyond his fixed allowance, is to be deemed guilty of embezzlement, and to be liable to the same fine as the manager in similar cases, besides dismissal from his office.

XII. *First.* By the rules for the decennial settlement, the assessment of lands the property of disqualified proprietors, is to be fixed in like manner as that of other lands ; and the following orders have been passed for the guidance of the managers and Collectors, regarding the payment of this assessment, as well as respecting the general appropriation of the receipts of the managers from the lands under their charge.

*Second.* -An allowance of ten per cent. on the public revenue assessed on the lands of disqualified proprietors, or of ten per cent. on the actual revenue paid to Government, in the event of the whole of the assessment not being realized, is to be fixed for the support of the proprietors, and such persons of their families as may be entitled to receive a provision from them, and the appointed manager of such lands shall be authorized to pay this allowance monthly, in proportion to his actual monthly payments of revenue to the Collector, and no further. Instead of paying the whole of his receipts to the Collector, he is to pay the monthly kists of Government revenue only to the Collector, or such part thereof as he may be able to discharge from his collections, after defraying the charges of his approved establishment and the allowance of the proprietors ; but he is to deliver a monthly account current of his receipts and disbursements to the Collector, who is to audit the disbursements therein specified, and see that the receipts, after defraying the necessary charges and providing the authorized allowance of the proprietor, have been fairly appropriated to the payment of the revenue due to Government. As the lands of disqualified proprietors are not held answerable for the payment of the revenue assessed thereon, in the event of the neat collections of any year proving inadequate to the payment of the fixed assessment, in addition to the allowance of the proprietor, and of there being a surplus collection in any future year, the Collector shall take care that such surplus is appropriated to the discharge of the arrear due to



Government, and the proportion of the proprietor's allowance which must also, according to the rule laid down, be at the same time in arrear; or if no such balance be outstanding, he shall see the surplus expended by the manager for the improvement of the lands, or otherwise for the benefit of the estate under his charge.

**XIII.** By the foregoing rules, ten per cent. on the revenue assessed or realized is fixed as the general allowance for the support of disqualified proprietors; and such persons of their families as may be entitled to receive a provision from them; but, as in some instances, this allowance may be more than adequate to the expense of suitably maintaining and educating minors, or maintaining other disqualified proprietors, as well as of making a provision for their relations entitled thereto; or, on the other hand, may not be sufficient for these purposes, in some instances where there may be other funds arising from lakhiráj lands, or other resources independent of the málguzárry lands, which might be appropriated thereto, the Collectors are vested with a discretionary power to reduce the ten per cent. allowance in the former case, and to increase it in the latter, as on a consideration of the rank and circumstances of the parties and the amount of their allowances and other income, they may think proper. They are however, to report any instances of the exercise of this power in their monthly communications to the Court of Wards, and previous to authorizing any increase of the fixed allowance, are to ascertain with accuracy, that there are lakhiráj lands, or other resources independent of the málguzárry lands, fully adequate to make good the same, without which no excess is to be admitted, unless the Governor-General in Council should think proper to grant a dispensation from the general rule, in any particular case that may appear to require it. In the event of any reduction of the allowance fixed for the support of disqualified proprietors, the difference is to be applied by the manager to the benefit of the estate under his charge, to which purpose he is also to apply the income arising from resources independent of the málguzárry lands, which the Collector, under the discretion above vested in him, may judge unnecessary for the education or maintenance of the proprietors, and the necessary provision of their relations entitled thereto.

**XIV.** Where a distinct guardian may be appointed, as hereafter specified, the manager is to pay to him the amount of the allowance fixed for the maintenance or education of the proprietors, and of the provision for persons of their families entitled thereto, as well as the amount of any resources independent of the produce of the málguzárry lands, which the Collectors, under the discretion vested in them by the foregoing article, may think it proper to allot for these purposes.

**XV.** Agreeably to the distinction laid down in Section vii., the manager is to have the entire care of the estate, real and personal. He will, therefore, have the exclusive charge of all lands, málguzárry or lakhiráj, as well as all houses, tenements, goods, money, and moveables of whatever nature, belonging to the proprietor whose estate may be committed to his charge, excepting only the house wherein such proprietor may reside, the moveables wanted for his or her use, and the money allowed for the support of the proprietor, and his or her family entitled to a provision, which are to be left to the care of the guardian, where distinct guardians may be appointed. Both managers and guardians, on their receiving charge of any property, are to sign an exact inventory of the same, which is to be deposited in the treasury of the collectorship.

**XVI.** The manager, agreeably to the terms of his obligation, is to manage the estate committed to him diligently and faithfully, for the benefit of the proprietor, and in every respect to act to the best of his judgment for the proprietor's interest, in like manner as if the estate were his own. In instances, however, where he may act for a proprietor under age, not otherwise disqualified, he is not to grant any lease extending beyond the life of the proprietor, or contrary to Regulation XLIV. 1793, or to dispose of any part of the permanent property committed to his custody, without the sanction of the Court of Wards.

**XVII.** In addition to the monthly account current required in Clause Second, Section xii., the manager, at the expiration of every year, is to deliver to the Collector an annual account current of his receipts and disbursements, upon oath, with vouchers for the latter, (unless the Court of Wards shall be satisfied that it will be for the benefit of their general trust to admit the manager to deliver in such accounts under a solemn declaration of their being true and faithful accounts; in which case they are empowered to receive the accounts under such declaration instead of an oath), and the Collector is to audit the disbursements and take care that the whole of the surplus receipts be duly appropriated, in the manner specified in Clause Second, Section xii.

**XVIII.** If the Collector should think it unnecessary or unadvisable to appropriate such surplus receipts to the improvement of the lands already under the manager's charge, he shall cause the same to be applied by the manager to the purchase of other landed property, or to interest loans on mortgages, or to the purchase of Government paper securities, as circumstances may render preferable; in which cases he shall transmit the title-deeds and mortgage-deeds of the land purchases or mortgages to the Court of Wards, to be deposited in the general treasury; but as interest will occasionally become payable on the Government paper securities, he shall deposit them in the public treasury under his charge, giving in all cases a receipt to the manager, as well for the title and mortgage deeds as the paper securities. The Court of Wards are also to obtain the Sub-Treasurer's receipt for the two former when deposited in the General Treasury, and are to transmit an attested copy thereof to the Collector to be delivered by him to the manager. The manager shall also deliver any existing title or mortgage deeds or Government securities belonging to the estate under his charge to the Collector, who shall, in like manner, return a receipt for the same, and transmit them to the Court of Wards, or deposit them in his public treasury as above directed. Any interest becoming payable on Government securities is to be paid to the manager, to be appropriated by him, in common with other resources, independent of the produce of the *málguzárry* lands, as before mentioned.

**XIX.** Any just debts now outstanding against, or hereafter adjudged against the estates of disqualified landholders, must necessarily be satisfied (if required so to be by the creditors), as far as may be consistent with the rights of Government, to whom the produce of the *málguzárry* lands is mortgaged, in the first instance, for the payment of the public revenue assessed thereon. The circumstances of all such debts, however, are to be immediately reported to the Collector, and by him without delay to the Court of Wards, with his sentiments on the best mode of satisfying the same, for their instructions, previous to any payment being made by the manager in discharge of them. In the event of any debts being compounded for a less sum than the full amount, the estate is to be debited by the manager for the actual payment only.

**XX.** Agreeably to Section vii., it will be the province of guardians appointed for disqualified landholders to take care of the person, maintenance, and, if a minor, the education of the wards.

**XXI.** The rules contained in Section viii., for the election of managers, are to be applied also to the choice of guardians: with these differences, that the guardianship shall in no instance be entrusted to the legal heir, or other person interested in outliving the ward, and that female minors shall have guardians of their own sex. Further, under these restrictions, landholders whose heirs are disqualified may appoint guardians to such heirs by will in writing; and such guardians (provided they be duly qualified), if willing to accept the trust and execute the obligation hereafter specified, shall be preferred. Such testamentary appointments, however, shall in all instances be reported, with the sentiments of the Collector, for the confirmation of the Court of Wards, and shall not be deemed valid till confirmed by them.

**XXII.** Landholders disqualified on account of minority, idiotism, lunacy, or other natural defect or infirmity, rendering them incapable of attending to the care of their own persons and maintain-

ance, will alone require guardians. Female, as well as male proprietors, not so disqualified, may themselves receive and disburse the allowance fixed for their maintenance.

XXIII. For persons of the descriptions above-mentioned, it is expected that some friend of the party will gratuitously discharge the trust of guardian, appropriating the fixed allowance to the maintenance, and, if a minor, to the education also of the ward. Should it, however, in any instance, be found necessary to make a pecuniary compensation to a person to act as guardian, such compensation, after being approved by the Court of Wards, is to be provided from the allowance fixed for the maintenance of the ward.

Security to be given and obligation to be executed by guardians.

XXIV. The guardian, previous to the receipt of his commission, is to give security for his appearance during the continuance of it, and is to execute the following obligation :—

“ I, A. B, having voluntarily taken on myself the guardianship of C, disqualified proprietor of D, do hereby solemnly promise and engage to execute the trust committed to me zealously and faithfully, to the best of my judgment, and according to the regulations which have been or may be prescribed for the guidance of guardians by the Governor General in Council. I will conscientiously appropriate the allowance fixed for the maintenance, and (if the ward be a minor) the education of my ward, to his (or her) benefit, and will derive no advantage therefrom myself, directly or indirectly, beyond the compensation granted me for my superintendence. I also promise and engage to render a true and just account of whatsoever may be received by me on account of my ward above-mentioned ; and in the event of its being proved that I have been guilty of any embezzlement, or of any breach of trust injurious to his (or her) property, I hereby bind myself, my heirs and successors, to make good treble the amount of the embezzlement or injury so proved against me.”

XXV. An establishment of necessary servants to act under the guardian, is to be proposed by the guardian to the Collector, and fixed by the Court of Wards, and the several rules and restrictions in Section xi., regarding the establishments of managers, are to be considered equally applicable to the establishments of guardians. The expense of the latter is to be defrayed from the allowance fixed for the support of the proprietors.

XXVI. The guardian is to deliver a monthly account current of his receipts and disbursements to the Collector, who shall audit the accounts therein specified, and see that the receipts have been fairly and duly appropriated. The guardian is also to deliver an annual account-current upon oath (unless the Court of Wards shall be satisfied that it will be for the benefit of their general trust to admit the guardian to deliver in such accounts under a solemn declaration of their being true and faithful accounts, in which case they are empowered to receive the accounts under such declaration instead of an oath), with vouchers, to be in like manner audited by the Collector ; and in the event of any money remaining in his hands which the Collector shall think unnecessary for the guardian's expenses in the ensuing year, he shall cause the same to be repaid to the manager, to be applied by him to the benefit of the estate under his charge.

XXVII. In cases of minority, where the minor may be a male, the superintendence of his female relations is not to be allowed after the expiration of the fifth year ; and on his attaining the age of tuition, it must be the first care of the guardian to procure proper teachers to give him an education suitable to his situation in life.

XXVIII.\* Minority, with respect to both Hindoos and Mahomedans, is limited to the expiration of the fifteenth year.

XXIX. The guardians of female minors, who, agreeably to Section xxi., are to be of the same sex, are also to take care that their wards, when arrived at the age of tuition, receive an education suitable to their condition.

\* Reg. XXVI. of 1793, Sec. ii., rescinds this Section and extends the minority of Hindoo and Mahomedan proprietors of estates paying revenue to Govt., to the end of the eighteenth year.

**XXX.** The trusts of guardian and manager may be united in persons to whom the inheritance cannot possibly descend, if circumstances should render the same eligible; but, in this case, the trustee shall be considered as acting in two distinct characters, and shall execute the obligations of both manager and guardian, and deliver the accounts required from each distinctly.

**XXXI.** Both manager and guardian shall sign and seal all papers with their own names and seals, adding to the former their designation of manager or guardian. They shall, on no account, sign or seal the name of their ward, or of his (or her) deceased parents, but shall deliver all family seals belonging to the ward to the Collector, to be deposited in the treasury of the collectorship.

Minors and others having guardians, how to be sued.

**XXXII.** *First.\** Minors, and other disqualified landholders having guardians, as described in Section xxii., shall not be sued but under the protection and joint name of their guardians.

*Second.* They may, however, during the term of their disqualification, sue the Collectors, their guardians, or managers, before the Court of Wards, for fraud, by any person willing to undertake their cause, provided he shall previously give security for the payment of all costs and damages in case of being nonsuited; in return for which, the person so suing shall receive any fine and costs that may be adjudged against the Collector, guardian, or manager, in the cause undertaken by him. The Court of Wards may order the Collector to inquire into, and report upon, any such charges against guardians or managers; but the Collector is not to pass judgment, which is to be given by the Court of Wards. If the Court of Wards or the Collector shall have occasion to require the attendance of any persons in the course of such inquiries, they shall make application to the Judge of the proper Dewanny Adawlut to summon them to attend, and the Court of Wards and Collectors are empowered to administer oaths to such persons, if necessary, under the rules and restrictions prescribed to the Zillah and City Courts for the administration of oaths. The Court of Wards are to transmit copies of any judgments which may be given by them, under this Clause, against a Collector, guardian, or manager, to the Court of Dewanny Adawlut of the zillah, and they shall be considered as judgments of the Court and be enforced accordingly. An appeal, however, shall lie from such judgments immediately to the Sudder Dewanny Adawlut, provided the petition of appeal be preferred to the Zillah Court, or to the Sudder Dewanny Adawlut, or to the Court of Wards, within three months after the date of the decision: and the Sudder Dewanny Adawlut is empowered to admit an appeal after that period, provided the petition of appeal be presented to that Court, and the appellant shall show good cause to its satisfaction, for not having preferred the appeal within the prescribed time.

**XXXIII.** No adoption by disqualified landholders is to be deemed valid, without the previous consent of the Court of Wards, on application made to them through the Collector.

**XXXIV.** When the Collectors report to the Board of Revenue the disqualification of any landholder, they are at the same time to state the condition of the party, the particulars of his or her estate, real and personal, as far as can be ascertained, and the person who may appear to them most eligible for manager and guardian, with the grounds of such opinion. In cases of testamentary appointments of guardians, they are also to notice the same, adding whether there be any and what objections to the confirmation of such appointments.

**XXXV.** The Collectors are further to make such monthly or annual reports to the Court of Wards as may be required by them, and they, as well as managers and guardians, are to observe all instructions transmitted to them by the Court of Wards, not contrary to this Regulation or such other Regulations as may be hereafter enacted by the Governor-General in Council.

\* Vide Reg. LV. of 1795, page 236.



XXXVI. If a proprietor shall have been declared disqualified and shall have been afterwards restored, or if the estate of any disqualified proprietor shall legally devolve to or come into the possession of any person not disqualified for the management of it, such proprietor, or his or her heir or successor, is declared entitled to sue the Collector, the guardian (if such disqualified proprietor shall have had a guardian) or the manager, in the proper Zillah or City Court, for any acts done by them respectively, whilst the estate may have been under the charge of the Court of Wards, in opposition to this or any other Regulation that may be hereafter enacted regarding disqualified proprietors and their estates, or to any order issued by the Court of Wards, or for any breach of their respective trusts. The rules regarding the suits specified in Section xxxiii., Regulation XIV. 1793, which the Collectors are required to defend at their own risk and expense, are to be considered applicable to suits that may be instituted against Collectors under this Section.

### REGULATION L. OF 1793.

A REGULATION for empowering the Court of Wards to exempt Female Proprietors whom they may deem competent to the Management of their own Estates, from the Operation of Regulation X. 1793, and for modifying certain other Rules contained in that Regulation: PASSED by the Governor-General in Council on the 6th December 1793.

I. THE produce of small estates, belonging to disqualified proprietors of land, being often too inconsiderable for defraying the expense of a separate manager and establishment; and it frequently occurring that portions of the same estate, belonging to a disqualified landholder, are situated in different zillahs, and as much inconvenience and embarrassment must consequently result from keeping distinct accounts for each portion under the different jurisdictions, especially when the manager may have occasion to apply the surplus of one portion to balance a deficiency in another portion of the estate, or to distribute on the sub-divisions of the estate their proportions of the malikana and charges, or to appropriate the surplus receipts to the improvement of the lands, or the purchase of landed property or government securities; and many female proprietors, from their education and habits of business, having been found competent to the management of their estates, and the Governor-General in Council being desirous that all such proprietors as are duly qualified should have the management of their own lands; and it often occurring, from the contiguity of a number of a small estates belonging to disqualified proprietors, that a number of them can conveniently, and with advantage to the proprietors, be managed by the same person, the Governor-General in Council has passed the following rules, applicable to the distinct considerations above enumerated.

II. In cases in which it shall appear to the Court of Wards that the produce of the estate of a disqualified proprietor is insufficient to provide for the expense of a separate establishment for the management of it, in conformity to Section xxi., Regulation VIII. 1793, and Regulation X. 1793, the Court are empowered to take such measures as, from the circumstances of the case, may appear to them best calculated for providing for the security of the public revenue and the maintenance of the proprietors of the land.

III. The Court of Wards are empowered to invest female proprietors of land with the management of their own estates, in cases in which the Court may be fully satisfied that they are competent to the charge from their capacity and habits of business. The Court are immediately to report to the Governor-General in Council every instance in which they may exercise the powers vested in them by this Section, with the grounds on which they may deem the proprietors qualified for the management of their lands.

IV. Female proprietors who may be exempted from the operation of the Regulations regarding disqualified landholders, in virtue of the rule contained in the preceding Section, are to execute the same engagements as other proprietors who are held qualified for the management of their lands.

V. Where portions of the same estate belonging to a disqualified landholder may be situated in different zillahs, the Court of Wards are empowered to authorize the monthly and annual accounts of the whole estate required to be furnished by the manager, to be rendered to the Collector of the zillah in which the principal portion of the estate may be situated, instead of delivering separate accounts for each portion to the Collector of the zillah in which it may be included.

VI. In cases in which, from the contiguity of a number of small estates belonging to disqualified proprietors, two or more of them can be conveniently superintended by one manager, the Court are empowered to entrust as many of the estates to the management of the same person as may appear to them advisable.

#### REGULATION LV. OF 1795.

A REGULATION for prohibiting the Courts of Civil Judicature from requiring Security from Guardians of disqualified Landholders, when Parties in Suits with their Wards, under Section xxxii., Regulation X. 1793: PASSED by the Governor-General in Council on the 1st September 1795.

I. DOUBTS having arisen whether guardians sued jointly with their wards, under Clause First, Section xxxii., Regulation X. 1793, are not liable, under the Regulations to give the same securities as are required from defendants in general; and it not having been intended by the rule contained in the above-mentioned Clause, that guardians should incur any personal responsibility on account of such suits, they being entrusted only with the care of the person, maintenance, and (if a minor) the education of the ward, and the estate of the ward being answerable for all claims upon it, the Governor-General in Council has been pleased to enact the following rule, which is to be considered in force from the date of its receipt in the several Courts respectively.

II. In cases in which a guardian may be a party jointly with his ward, under Clause First, Section xxxii., Regulation X. 1793, in any civil suit, the securities required by the Regulations to be taken from parties in suits shall not be demanded from the guardian.

#### REGULATION III. OF 1796.

A REGULATION for excluding from the Jurisdiction of the Court of Wards, certain descriptions of Landed Estates belonging to disqualified Landholders, and for declaring the Rules in Section v., Regulation XLIV. 1793, to extend to the cancelling wholly the Leases of those under-farmers, a Part only of the Land included in whose Leases may be sold for Arrears of Revenue: PASSED by the Governor-General in Council on the 22nd April 1796.

I. REGULATION X. 1793 exempting the lands of disqualified proprietors from sale for arrears of public revenue accruing whilst under the management of the Court of Wards, instances have occurred in which individuals have transferred their estates to their minor sons, in order to bring their lands under the jurisdiction of that Court. As the admission of transfers of this description would not only be inconsistent with the object of the said Regulation (which was intended for the security of the property of disqualified persons succeeding to estates in the regular course of inheritance on the demise of the party from whom they might inherit), but would also enable every individual, the revenue assets of whose estate might be diminished by mismanagement or from other causes, so as to be inadequate to the payment of the public demands, to bring his estate under the jurisdiction of the Court of Wards by a real or fictitious transfer of it to a minor son or other disqualified person, and thereby, in fact, not only compel Government to undertake the management of his estate, but also to submit to a loss equivalent to the deficiency in its revenue assets; and doubts having been entertained, whether the rules in Section v., Regulation XLIV. 1793, extend to the cancelling wholly the leases of those under-farmers, a part only of the lands included in whose leases are sold for arrears of public revenue, the following rules have been enacted:—

II. The ordinary jurisdiction of the Court of Wards is declared to extend to such estates only as devolve to disqualified landholders, in the regular course of inheritance, on the demise of the party from whom they inherit the same; and all landed estates, whether subject to or exempt from the payment of revenue, which have or may become the property of any disqualified landholder by purchase, gift, or in virtue of any other right, excepting that of inheritance as aforesaid, are declared exempt from the jurisdiction and authority of the Court of Wards, and if subject to the payment of public revenue, shall be liable to sale for arrears thereof, and all other demands on the part of Government, in the same manner as if the proprietor or proprietors were not under any disqualification. Provided, however, that the above rule shall not be construed to extend to exempting from the jurisdiction of the Court of Wards any lands the property of a disqualified landholder now under their charge, which did not devolve to him or her in the regular course of succession, as aforesaid; nor to subjecting any such lands to sale for arrears of revenue on account of the period during which they have been, or may be, under the charge of the Court; and provided also, that it shall be competent to the Governor-General in Council to commit to the charge of the Court of Wards any estate paying revenue to Government, being the sole property of any disqualified person, or of any two or more persons, both or all of whom may be disqualified, although the same shall not have descended to such person or persons in the regular course of inheritance as aforesaid, and also any lakhirāj lands belonging to such proprietor or proprietors, whenever the same shall appear to him for the interests of Government and the proprietor or proprietors; and such estate and lands so committed to the charge of the Court of Wards shall be exempt from sale for arrears of revenue accruing whilst they shall be under the charge of the Court, and shall be considered in all respects, as far as regards the management of them by the Court, the same as if they had devolved to the proprietor or proprietors in the regular course of inheritance as aforesaid; and the proprietor or proprietors shall in all respects be treated by the Court accordingly.

III. The rules contained in Section v., Regulation XLIV. 1793 are hereby declared to extend to the cancelling wholly the leases of those under-farmers, a part only of the lands included in whose leases may be sold for the discharge of arrears of public revenue.

### REGULATION VII. OF 1796.

A REGULATION for repealing such Part of Regulations VIII. and X. 1793, as excludes the Proprietors of Land from the Management of their Estates on Grounds of Contumacy or Profligacy of Character: PASSED by the Governor-General in Council on the 22nd July 1796.

I. CONSIDERATIONS of humanity, and a regard to the interest of individuals who, from natural or other disqualifications, might be considered incapable of managing their own estates, induced the Governor-General in Council, in framing the rules contained in Regulation VIII. 1793, for a permanent settlement of the territorial revenue of the Company's provinces, to exclude from the general settlement with the proprietors of the soil, certain descriptions of persons who, from natural defects or infirmities, were deemed incompetent to the management of their lands, and to direct that the same should be managed, for the benefit of the proprietors, by persons appointed to the trust by Government, under the restrictions prescribed in Regulation X. 1793. From similar motives, and with a view to provide against particular cases of contumacious conduct, this exclusion was, in like manner, extended to persons whom the Governor-General in Council might deem disqualified on account of contumacy or notorious profligacy of character. But that these grounds of disqualification might not be assumed against any landholder without a fair investigation and the fullest evidence, it was enacted by Clause Fourth, Section v., Regulation X. that if a proprietor of land should be deemed disqualified on the ground of contumacy or notorious profligacy of character, an inquiry into the circumstances of the case should be made, in the presence of the party or his vakeel, by the Judge of the Zillah or Provincial Court (as might be directed by the Sudder Dewanny Adawlut); that the party or his vakeel should be

allowed to bring any evidence he might have to adduce ; and finally, that the whole proceedings upon the case should be submitted for the consideration and decision of the Sudder Dewanny Adawlut, which Court is to determine whether the stated ground of disqualification be well founded or otherwise. The public judicial inquiry ordered by the afore-mentioned Regulation to establish profligacy of character was obviously intended for the security and benefit of the parties to be affected thereby. But experience has shown that it is liable to ill consequences which far overbalance the advantages intended by it, and must, in many instances, by an exposure of private conduct and character in a public Court of Justice, be extremely offensive to those who are the objects of it, and may in some instances, particularly to Hindoo proprietors of land, prove highly injurious ; than which nothing could be more foreign to the intention and wish of Government. For this reason, and further, in consideration of the general and indefinite terms in which the grounds of disqualification above-mentioned are unavoidably stated, as well as in the expectation that the objects intended by the disqualification of landholders on these grounds will be sufficiently attained by the due administration of the laws, and the sense of interest which, now that the revenue of Government is fixed, should impel every landholder to the utmost improvement of his own estate, the Governor-General in Council has resolved to alter, and in part rescind, the existing Regulations respecting disqualified proprietors of land, to the following effect :—

II. The exceptions to the general rule for a settlement of the land revenue with Parts of Regs. VIII. and the actual proprietors of the soil, contained in Section xx. X. 1793 rescinded.

Regulation VIII. 1793, as far as the same relate to persons whom the Governor-General in Council might deem disqualified on account of contumacy or notorious profligacy of character, are hereby revoked and done away ; and, consequently, the provisions made in Clause Fourth, Section v., Regulation X. 1793, for the process to be observed in establishing these grounds of disqualification, together with all other parts of the said Regulation having reference thereto, or to the management of the lands of persons disqualified on the grounds in question, are to be considered no longer in force, as applicable to such persons or their lands.

III to V.—[Rules for the application of the above rules to cases pending when this Regulation was enacted.] *Ceased to be operative.*

#### REGULATION VI. OF 1822.\*

A REGULATION to establish a Court of Wards for Benares, and to define and explain certain of the Rules regarding the Powers and Jurisdiction of the several Courts of Wards : PASSED on the 1st August 1822.

1. THE rules for constituting and for fixing the jurisdiction of the Court of

##### Preamble.

Wards contained in Regulation X. 1793, extended to the Ceded and Conquered Provinces by Regulation LII. 1803, and Section xxix., Regulation VIII. 1805, and to Cuttack by Section xxxvi., Regulation XII. 1805, have never been extended to the province of Benares, though such extension was obviously intended, and is distinctly alluded to in Clause Seventh, Section vii., Regulation V. 1795. Moreover, the original rules for the management of the estates of minors, and other disqualified persons over which the Court of Wards have jurisdiction, provide only for the appointment of a manager, from amongst the relations, connections, or principal servants of the minor's family, to collect the rents and otherwise manage the estate under the general authority of the Court of Wards. This system of management was early abandoned in the case of the less valuable estates, where the expense incident to the system was found to consume the profits, and the Court of Wards were authorized in such cases to adopt, at their discretion, any mode of management they might judge fit. Subsequently the managers were declared to be chosen, under the instructions of the Board of Revenue, without any regard to their connection with the proprietors. The revenue authorities were thus virtually vested with full powers of managing ward estates as might appear best, and the Court of Wards finding the charges of

\* By Section iv., Regulation I. of 1829, Commissioners of Revenue were entrusted with the powers and authority then vested in the Boards of Revenue and Courts of Wards, to be exercised only within the several districts comprised in their respective divisions, and subject always to the control of a Sudder or Head Board.



management by the said officers to be generally inordinate, obtained the authority and instructions of Government to substitute the system of farming in all ordinary cases. This system, which was adopted and pursued with a view to the interests of the minors, has now prevailed for a period of eighteen years. Nevertheless the terms in which the discretion of dispensing with a manager is vested in the Court by legislative enactment have led to doubts of the legality of the practice of farming, as applied to extensive or profitable estates; it has accordingly been deemed necessary to declare by a specific enactment the competency of the Court of Wards to exercise generally a discretion in regard to the management of estates under their charge, and further to declare the legality of farms heretofore made under their authority. It is moreover expedient to enable the Courts of Wards to refrain from interfering with the estates of minors or other disqualified proprietors, in cases wherein they deem their interposition unnecessary or inexpedient; the following rules have accordingly been enacted, to be in force, as provided therein, from the date of their promulgation:—

II. Regulation LII. 1803, with the addition contained in Section xxix., Regulation VIII. 1805, is hereby extended to the province of Benares, and part of Regulation VIII. 1805, extended. and the Board of Revenue for the Central Provinces is constituted a Court of Wards for that province, under the above rules, as hereinafter modified and explained.

III. *First.* The several Courts of Wards established within the territories subject to the residency of Fort William are hereby declared competent to farm estates falling under their jurisdiction for a term not exceeding ten years, or to adopt such other form of management, not involving an assignment of the minor's interests, for a period exceeding the above, as may in their discretion seem most expedient, anything in the existing Regulations to the contrary notwithstanding.

It is hereby further declared and provided, that all farms heretofore made by or in pursuance of orders from the Courts of Wards, whether under the special authority of the Governor General in Council, or under the Courts own construction of its general powers, shall, to all intents and purposes, be held and considered to be legal and valid, and no exception shall be taken or allowed by any Court of Justice against such farms, on the ground of there having hitherto been no rule in any Regulation published according to the provisions of Regulation XLI. 1793, specifically authorizing the practice.

Farmers, &c., holding lands under the Court of Wards, subject to same rules as persons holding under Collectors.

*Second.* Farmers and others holding under the Revenue Authorities in their capacity of Courts of Wards, shall be subject to the same Rules and Regulations as are applicable to other persons holding similar tenures and interests under Collectors of the land revenue.

IV. The several Courts of Wards are hereby vested with a discretion to refrain from interfering with the estates of minors or other disqualified proprietors, in cases wherein they may deem their interposition unnecessary or inexpedient; provided, however, that no estate, the sole property of a minor and descended to him by the regular course of inheritance, shall, during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same; but the Revenue Authorities shall, on an arrear so accruing, be authorized to farm the estate for a period not exceeding ten years; and it will of course be competent to the Courts of Wards to assume charge of such estates at any time during the minority of the proprietor, notwithstanding they may have originally refrained from interfering.

## ACT XXVI. OF 1854.

*(Received the assent of the Governor-General on the 11th of November 1854.)*

AN ACT for making better provision for the Education of Male Minors subject to the superintendence of the Court of Wards.

WHEREAS the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons: It is enacted as follows:—

I. The general superintendence and control of the education of every male minor, whose property has been, or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation, which now is, or hereafter shall be in force, is hereby vested in the Collector of Revenue acting under the said Court of Wards, in the zillah or district wherein such minor's estate is situate; or, if such minor is possessed of immoveable property in different districts in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the sudder station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such school or college as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

III. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the estate are sufficient for that purpose, cause such minor to be educated by a private tutor, properly qualified, either at the family residence of such minor, or at the sudder station or elsewhere within the said Presidency; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

IV. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards; and if, in any such case, the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards at its discretion, either to remove him from both the said offices, or to continue him in that of manager only.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship: and every guardian appointed in the place of a guardian so removed shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

VII. The right to the custody of the person of any male minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally, or upon the removal of a former guardian, to be the guardian of such minor, or in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

VIII. All orders and proceedings of a Collector under the provisions of this Act, shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

### ACT XXXV. OF 1858.

(Received the assent of the Governor-General on the 14th September 1858.)

AN ACT to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Courts of Judicature.

WHEREAS it is expedient to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature; and to prescribe general rules by which the state of mind of persons not subject to such jurisdiction, who are alleged to be Lunatic, may be enquired into and ascertained; It is enacted as follows:—

I. So much of Section v., Regulation X. 1793, of Section ix., Regulation LII. 1803, of Regulation I. 1800, and of Section xxix., Regulation VIII. 1805 (extended to Benares by Section ii., Regulation VI. 1822), of the Bengal Code; and so much of Sections vi. and vii., Regulation V. 1804, and of Sections xx. and xxii., of the said Regulation (as modified by Section iii., Regulation X. 1831), of the Madras Code as relate to Lunatics or idiots—are hereby repealed.

II. Whenever any person not subject to the jurisdiction of the Supreme Courts, who is possessed of property, is alleged to be a Lunatic, the Civil Court, within whose jurisdiction such person is residing, may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

III. Application for such enquiry may be made by any relative of the alleged Lunatic or by any Public Curator appointed under Act XIX. of 1841, or by the Government Pleader, or if the property of the alleged Lunatic consist in whole or in part of land or any interest in land, by the Collector of the District in which it is situate. If the property or any part thereof be of such a description as by the law in force in any Presidency where such property is situate would subject the proprietor, if disqualified to the superintendence of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

IV. When the Civil Court is about to institute any such enquiry as aforesaid, it shall cause notice to be given to the alleged Lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also direct a copy of such notice to be served upon any relative of the alleged Lunatic.

Notice of enquiry to be given to Lunatic.

Service of notice.

V. The Civil Court may require the alleged Lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic. The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged Lunatic for the purpose of a personal examination.

VI. The attendance and examination of the alleged Lunatic under the provisions of the last preceding Section shall, if the alleged Lunatic be a woman who, according to the manners and customs of the Country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

VII. The Civil Court, if it think fit, may appoint two or more persons to act as Assessors to the Court in the said enquiry. Upon the completion of the enquiry, the Court shall determine whether the alleged Lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made, or out of the estate of the alleged Lunatic if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

Appointment of Assessors.

Order of Court.

VIII. If the alleged Lunatic reside at a distance of more than fifty miles from the place where the Civil Court to which the application shall have been made is held, the said Court may issue a Commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided. On the completion of the enquiry, the subordinate Court shall report its proceedings with the opinions of the Assessors, if Assessors have been appointed, and its own opinion on the case; and thereupon the Civil Court shall make such order in the case as it may think proper.

IX. When a person has been adjudged to be of unsound mind and incapable of managing his affairs, if the estate of such person or any part thereof consist of property which by the law in force in any Presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorized to take charge of the same. In all other cases, except as otherwise hereinafter provided, the Civil Court shall appoint a Manager of the estate. Any near relative of the Lunatic or the Public Curator, or, if there be no Public Curator, any other suitable person, may be appointed Manager.

Issue of Commission to a subordinate Court.

Report of Subordinate Court.

Order of Civil Court.

X. Whenever a Manager of the estate of a Lunatic is appointed by the Civil Court, the Court shall appoint a fit person to be Guardian of the person of the Lunatic. The Manager, unless he be the Public Curator, may be appointed Guardian. Provided always that the legal heir of the Lunatic shall not in any case be appointed Guardian of his person.

Management of Lunatic's estate, if consisting of property subject to Court of Wards.

In all other cases.

Who may be appointed Manager.

Appointment of Guardian by Civil Court.



**XI.** If the estate consist in whole or in part of land or any interest in land not subject to the jurisdiction of the Court of Wards, the Civil Court, instead of appointing a Manager, may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property and a Guardian of the person of the Lunatic. All the proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Proceedings of Collector subject to control of superior Revenue Authorities.

Remuneration of Managers and Guardians.

Lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the Collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the Lunatic as, under the circumstances of the case, may be thought suitable.

**XIII.** The person appointed to be Guardian of a Lunatic's person shall have the care of his person and maintenance. When a distinct Guardian is appointed, the Manager shall pay to the Guardian such allowance as shall be fixed by the Court or the Collector, as the case may be, for the maintenance of the Lunatic and of his family.

**XIV.** Every Manager of the estate of a Lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Lunatic; and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Lunatic. But no such Manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immoveable property for any period exceeding five years, without an order of the Civil Court previously obtained.

**XV.** Every person appointed by the Civil Court or by the Collector to be Manager of the estate of a Lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the landed property belonging to the Lunatic, and of all such sums of money, goods, and effects, as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such Manager shall furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the District, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. If any relative of the

Proceeding if accuracy of inventory or accounts be impugned.

Lunatic, or any public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the Manager and enquire summarily into the matter and make such order thereon as it shall think proper; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the Manager was appointed by the Collector.

**XVI.** All sums received by a Manager on account of any estate in excess of what may be required for the current expenses of the Lunatic or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

**XVII.** It shall be lawful for any relative of a Lunatic to sue for an account. Relative may sue for such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

**XVIII.** The Civil Court, for any sufficient cause, may remove any Manager appointed by the Court, not being a Public Curator, and may appoint such Curator or any other fit person in his

Removal of Manager or Guardian by Civil Court.

room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all monies received or disbursed by him. The Court may also, for any sufficient cause, remove any Guardian appointed by the Court. In like manner the Collector, for any sufficient

cause, may remove any Manager or Guardian appointed by the Collector; and the Court, on the application of the Collector, shall compel any Manager so removed to deliver his accounts and the property in his hands.

XIX. The Civil Court may impose a fine not exceeding five hundred Rupees on any Manager of the estate of a Lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property.

XX. If it appears to the Civil Court, having regard to the situation and condition in life of the Lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a Manager of the estate as hereinbefore provided, the Court may, instead of appointing such Manager, order that the property if money or if of any other description be realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the Lunatic and his family.

XXI. When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person or any other person acting on his behalf or having or claiming any interest in respect of his estate, shall represent by petition to the Civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the Court may institute an enquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs. The enquiry shall be conducted in the manner provided in Section iv. and the four following Sections of this Act; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

XXII. Except as otherwise herein provided, all orders made by a Civil Court or by any subordinate Court under this Act, shall be open to appeal. Orders to be open to appeal under the rules in force for appeals in miscellaneous cases.

XXIII. The word "Lunatic," as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The expression "Civil Court" shall mean the principal Court of original jurisdiction in the District. Words importing the masculine gender shall include females.

#### ACT XL. OF 1858.

*(Received the assent of the Governor-General on the 11th December 1858.)*

AN ACT for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors not brought under the superintendence of the Court of Wards; It is enacted as follows:—

I. Regulation I. 1800, Clause 8 and the six following Clauses of Section xxix., Regulation VIII. 1805, Section v., Regulation XVII. 1805, and so much of Sections ii. and iii., Regulation V.

1799, and of Clauses 2 and 3 Section xvi., Regulation III. 1803,\* as restrict the interference of the Civil Courts in cases of inheritance by Minors, are repealed.

Persons and property of Minors not under the protection of the Court of Wards shall be subject to jurisdiction of Civil Court.

### III. Every person

What persons claiming to have charge of property in trust for a Minor may apply for Certificate of administration.

No person to institute or defend a suit without such Certificate.

Proviso.

### IV. Any relative

Who may apply to Court to appoint a person to take charge of the property &c. of a Minor. person of such Minor.

To what Court application to be made, if property be situate in more than one District.

### VI. When application

Summary enquiry to be made by Court on application.

soon after as may

Proviso.

Court subordinate to it

VII. If it shall appear

Certificate of administration to whom to be granted.

is unwilling to undertake

Court may appoint person having such Certificate, Guardian of the Minor's person.

said or such relative or any other relative or friend of the person of the Minor.

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

### IX. If no title to a

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the property, &c. of a Minor.

II. Except in the case of proprietors of estates paying Revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all Minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court.

who shall claim a right to have charge of property in trust for a Minor under a Will or Deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a Certificate of administration; and no person shall be entitled to institute or defend any suit\* connected with the estate of which he claims the charge until he shall have obtained such Certificate. Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of administration has not been granted to such relative. or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and

V. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

VII. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed, and is willing to undertake the trust, the Court shall grant a Certificate of administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also, if it think fit, (unless a Guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

VIII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor who may be desirous or willing to be entrusted with the charge of his property or person. Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property

and person, the Court may proceed to make such provision in the manner herein-after provided.

If estate consist only of moveable property, &c. Court may grant Certificate to Public Curator or other person.

or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

X. If the estate of the Minor consist of moveable property or of houses, gardens, or the like, the Court may grant a Certificate to the Public Curator appointed under Section xix., Act XIX. of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*),

XI. Whenever the Appointment of Guardian.

person to whom a Certificate of administration has been granted, unless he be the Public Curator, may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the Minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor; and such allowance and the

Minor's allowance.

allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

XII. If the estate of the Minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property of the Minor and a Guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the Manager and the Guardian respectively, so far as the same may be applicable, as if the property and person of the Minor were subject to the jurisdiction of the Court of Wards.

XIII. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the Minor or otherwise as it may think proper.

XIV. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the District in which the estate is situate may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court. The Collector shall in such case appoint a Guardian for the care of the persons, and a Manager for the charge of the property of the disqualified proprietors, in the manner prescribed in Section xii. If the property be situate in more than one District, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the Civil Court of his own District, and the orders of the Court of that District shall have effect also in other Districts in which portions of the property may be situate.

When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Court of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors.

Proceedings of Collector subject to control of superior Revenue Authorities.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.



**XVI.** The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section x. shall, within six months from the date of the Certificate, deliver in Court an inventory of any immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually, within three months from the close of the year of the era current in the District, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. If any relative or friend of a Minor or any Public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

**XVII.** All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

**XVIII.** Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

**XIX.** It shall be lawful for any relative or friend of a Minor, at any time during the continuance of the minority, to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

**XX.** If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

**XXI.** The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a Certificate to the Public Curator or any other person as the case may be; and may compel the person whose Certificate has been re-called to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him. The Court may also for any sufficient cause remove any Guardian appointed by the Court.

**XXII.** The Civil Court may impose a fine not exceeding five hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

XXIII. The Civil Court may permit any person to whom a Certificate shall have been granted under this Act, not being the Public Curator, and any Guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section x., shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the Minor's estates, as the Civil Court shall think fit.

XXV. Every Guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male Minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI. of 1854 (*for making better provision for the education of male Minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such Minors, and to every such Guardian.

XXVI. For the purposes of this Act, every person shall be held to be a Minor who has not attained the age of eighteen years.

XXVII. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of a Guardian of the person of any minor whose father is living and is not a Minor; and nothing in this Act shall authorize the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the father or husband of the minor, the Guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

XVIII. All orders passed by the Civil Court or by any Subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the Subordinate Courts.

XIX. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the District, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any Minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

## ACT IX. OF 1861.

(Received the assent of the Governor-General on the 24th April 1861.)

### AN ACT to amend the Law relating to Minors.

WHEREAS it is expedient to amend the Law for hearing suits relative to the custody and guardianship of Minors; It is enacted as follows:—

Preamble.

I. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor may make an application by petition, either in person or by a duly constituted agent, to the principal Civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an examination of the Petitioner or his agent, if he appear by agent, that there is ground for proceeding, shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such Minor.

II. The Court may direct that the person having the custody or being in possession of the person of such Minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such Minor as may appear proper.

III. On the day appointed for the hearing of the petition or as soon after as may be practicable, the Court shall hear the statements of the parties or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such Minor and the costs of the case.

IV. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

V. An appeal shall lie to the Sudder Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such Sudder Court, except that the petition of appeal may be written on a stamp paper of the value prescribed for petitions to the Sudder Court.

VI. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

VII. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the Laws in force by any Supreme Court of Judicature or the Courts of Wards; or under Act XXI. of 1855 (*for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George*), and Act XL. of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.*)

VIII. The term "Sudder Court" in this Act shall denote the Highest Court of Appeal in any part of the British territories in India.

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**CHAPTER VI.**

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**SALES FOR ARREARS OF REVENUE,  
AND PUTNEE SALES.**

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## CHAPTER VI.

### ACT XI. OF 1859.

*(Received the assent of the Governor-General on the 4th May 1859.)*

AN ACT to improve the Law relating to Sales of Land for arrears of Revenue in the Lower Provinces under the Bengal Presidency.

WHEREAS it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government; in the Province of Cuttack : and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured : and whereas it is expedient to afford sharers in estates, who duly pay their shares of the Sudder jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers : and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents : and whereas it is expedient to provide for the voluntary registration of dependent talooks existing at the time of settlement : and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale : and to give absolute security to such tenures by special registry, when shewn to be held at rents sufficient for the security of the revenue : and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Behar, and Orissa ; It is enacted as follows :—

I. Regulation X. 1818 (*relating to collection of the public revenue from proprietors and farmers of land in the District of Cuttack, &c.*) is hereby repealed ; and from the date of the passing of this law, Act I. of 1845 (*regarding sales of land for arrears of revenue*), except in so far as it repeals other laws, and except in regard to sales made or advertised, to arrears and other demands realizable, and to suits commenced and acts done, under authority thereof—shall cease to have effect in the Lower Provinces of Bengal.

II. If the whole or a portion of a kist or instalment of any month of the era What is an arrear of according to which the settlement and kistbundee of any revenue. mehal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta Latest day of payment. shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the *Official Gazette*, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the Office of the Collector or other Officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate, (or Joint Magistrate, as the case may be,) and Moonsiffs,

and at every Thannah station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Sylhet, personal property of defaulters may in the first instance be distrained and sold.

IV. Provided, that, in the district of Sylhet, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

V. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment according to Section iii. of this Act, in the Office of the Collector or other Officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Moonsiff's Court and Police Thannah of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Moonsiff's Court or Police Thannah, in some one or more of such Courts or Thannahs; and also at the cutcherry of the *málguzár* or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

*First.* Arrears other than those of the current year, or of the year immediately preceding.

*Secondly.* Arrears due on account of estates other than that to be sold.

*Thirdly.* Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

*Fourthly.* Arrears due on account of *tuccavee*, *poolbundee*, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

VI. The Collector or other Officer duly authorized to hold sales under this Act shall, as soon as possible, after the latest day of payment fixed in the manner prescribed in Section iii. of this Act, issue notifications in the language of the district, to be affixed in his own Office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the Office of the Collector or other Officer as aforesaid. And if the Government revenue of any estate or share of an estate, to be sold, exceed the sum of five hundred Rupees, a notification of the sale of such estate or share of an estate shall be published in the *Official Gazette*. Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other Officer as aforesaid, and shall be sold to the highest bidder. And no payment, or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

VII. Whenever an estate or share of an estate is notified for sale as provided by Section vi. of this Act, the Collector or other Officer as aforesaid shall affix a proclamation in the language of the district, in his own Office, and as soon thereafter as may be in the Moonsiff's Courts and Police Thannahs within which the estate or share of an estate, or any part of it, is situated, and also at the cutcherry of the *málguzár* or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, forbidding the ryots and under-tenants to pay the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

VIII. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in Section xv. of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

IX. The Collector or other Officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to Section iii. of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due, or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate, or share, or part thereof, subject to the rules in force for taking security in the cases of parties in Civil suits. And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the share held in the estate by the applicant. The Collector shall then cause to be published in his own Office, in the Court of the Judge, Magistrate (or Joint Magistrate, as the case may be,) and Moonsiffs, and in the Police Thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding Section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the appli-