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## **CHAPTER XI.**

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### **ACQUISITION OF LAND FOR PUBLIC PURPOSES, &C.**

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## CHAPTER XI.

### ACT VI. OF 1857.

*(Received the assent of the Governor General on the 1st May 1857.)*

#### AN ACT for the acquisition of land for public purposes.

WHEREAS it is expedient to make better provision for the acquisition of land needed for public purposes within the territories in the possession and under the Government of the East India Company, and for the determination of the amount of compensation to be made for the same; It is enacted as follows :—

I. Sections i. to vii. inclusive, Regulation I., 1824 of the Bengal Code; so much of Act XXVIII. of 1839 as is in force; Act I. of 1850; Act XVII. of 1850; Act XLII. of 1850; Act XX. of 1852; and Act I. of 1854—are hereby repealed, except so far as they repeal the whole or any part of any other Regulation or Act, and except as to suits or proceedings commenced, contracts made, acts done, and liabilities incurred before the passing of this Act.

II. Whenever it appears to the local Government that any land is required to be taken by Government at the public expense for a public purpose, a declaration shall be made to that effect under the signature of a Secretary to the Government or of some Officer duly authorized to certify the orders of the Government, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose; and after making such declaration, the Government may take any such land in the manner hereinafter provided.

After declaration Collector shall be directed to take order for acquisition of land as hereinafter provided.

III. Whenever any land shall have been declared to be so required for a public purpose, the Government shall direct the Collector of the District, or some other Officer specially appointed in that behalf, to take order for the acquisition of the land in the manner hereinafter provided.

IV. The Collector or other Officer shall thereupon cause the land to be marked out and measured, and a plan to be made of the same. After the land has been so marked out and measured, he shall cause a notice to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, to the effect that the land is about to be taken by Government for a public purpose; and shall also give notice to the same effect to the occupier (if any) of such land, and to all such persons, known or believed to be interested therein or to be entitled by Section xxxviii. of this Act to act for persons so interested, as shall reside or have agents within the Collectorate or other Revenue District in which the land is situate, by serving such notice on such persons or their agents. Such notice shall contain a citation calling on all persons interested in the land to appear personally or by agent at a time and place therein mentioned, such time not being less than fifteen days after the date of publication of the notice; and to state the nature of their interests in the land and the amount and particulars of their claims to compensation for the same.



V. On the day fixed, the Collector or other Officer shall proceed to enquire summarily into the value of the land and the amount of compensation to be awarded, and if he and all the persons interested who have attended in pursuance of the notice agree as to the amount of compensation to be allowed, shall make an award for the same: and if the said persons agree also in the apportionment of the compensation, such apportionment shall be specified in the award. The award shall be final and conclusive in regard to the value of the land and the amount of compensation for the same; and also in regard to the apportionment (if any) of the compensation among the persons who have agreed thereto.

Collector to enquire into the value of the land, and the amount of compensation to be awarded.

Collector in certain cases to make award which shall be conclusive.

Postponement of enquiry.

such apportionment shall be specified in the award. The award shall be final and conclusive in regard to the value of the land and the amount of compensation for the same; and also in regard to the apportionment (if any) of the compensation among the persons who have agreed thereto. The Collector or other Officer may, if no claimant shall attend pursuant to the notice, or if he shall think fit for any other cause, postpone the enquiry to a day to be fixed by him and notified in the manner provided in the preceding Section.

VI. When the Collector or other Officer proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which the enquiry may have been postponed, if no claimant shall attend, or if the said Collector or other Officer shall be unable to agree with the persons interested who have attended in pursuance of the notice as to the amount of compensation to be allowed, the matter shall be referred to the determination of arbitrators to be appointed in the manner hereinafter provided.

VII. If upon the said enquiry any question arise respecting the title to the land or any rights or interests therein between two or more persons making conflicting claims in respect thereof, the person deemed by the Collector or other Officer to be in possession as owner, or in receipt of the rents as being entitled thereto, shall, for the purpose only of taking such measures as may be necessary for fixing the value of the land and the amount of compensation to be allowed for the same, be held as between such persons to be the person interested in the land.

In cases of conflicting claims, the person in possession shall be held for some purposes to be the person interested in the land.

After Collector's award or reference to arbitration, possession may be taken and the land shall be vested absolutely in the Government.

VIII. When the Collector or other Officer has made an award or directed a reference to arbitration, he may take immediate possession of the land, which shall thenceforward be vested absolutely in the Government, free from all other estates, rights, titles, and interests.

IX. *Repealed by Section i., Act II. of 1861.*

X. *Clause 1.*—When any case is referred to arbitration, the Collector or other Officer, and the person interested in the land, shall, unless they concur in the appointment of a single arbitrator, each appoint one arbitrator; if there be several persons having a joint interest in the land, and they cannot agree in the appointment of an arbitrator, such disagreement shall be deemed a refusal to appoint within the meaning of the next following Section.

*Clause 2.*—If there be several persons having distinct and separate interests in the land, and they cannot agree in the appointment of an arbitrator on their behalf, it shall be competent to the Collector or other Officer (subject to the orders of the Commissioner or other superior Revenue authority) to refer the question of the compensation to be allowed for each of such distinct and separate interests to a separate arbitration; or to select any one of the persons interested whose interest appears to him to qualify such person to represent the others, and the person so selected shall appoint an arbitrator on behalf of all the persons interested.

In every case the appointment shall be in writing, and neither of the parties to the arbitration shall have power to revoke the same without the consent of the other.

If no claimant attends, or if no arbitrator is appointed by the persons interested, the arbitrator appointed by the Collector shall proceed to arbitrate.

Proviso.

Appointment of a third arbitrator.

Arbitrators shall neglect to appoint such third person for a period of one week after having been required to do so, the Collector or other Officer shall appoint a third arbitrator.

XIII. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

The arbitrators may by consent determine the proportions in which the persons interested are entitled to share in the amount of compensation awarded.

XIV. When the amount of compensation is referred to arbitration, it shall be competent to the Collector or other Officer, with the written consent of all the persons interested, to require the arbitrators to determine the proportions in which all such persons are entitled to share in the amount awarded.

XV. When the Collector or other Officer and the persons interested in the land agree as to the amount of compensation, or when such amount shall have been settled by arbitration, if any dispute shall arise as to the apportionment of the same or any part thereof, it shall be competent to the Collector or other Officer with the written consent of all persons interested in the matter in dispute, to refer the same to arbitration. If the parties cannot agree with respect to the nomination of the arbitrators, or if the persons nominated by them shall refuse to accept the arbitration or, having accepted it, shall refuse to act, and the parties are desirous that the nomination shall be made by the Collector or other Officer, he shall appoint some proper person or persons to arbitrate the matter. The provisions of this Act relating to arbitrators appointed under Sections x. and xi. and to the proceedings of such arbitrators shall be applicable to persons appointed arbitrators under this Section.

XVI. After the arbitrators have accepted the appointment, the Collector or other Officer shall be competent to exercise towards them such powers and authority for securing their attendance and the due completion of their award, as the Collector may legally exercise towards witnesses summoned before him when acting judicially for the purpose of compelling them to attend and give evidence.

In default of award within a specified period, other arbitrators may be chosen.

the same rules as the first.

XVII. If no award be made within a period to be fixed for that purpose by the Collector or other Officer, he may order that the matter shall be referred to another arbitrator or arbitrators to be chosen in the same manner and subject to the same rules as the first.

XVIII. The Collector or other Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings

maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Witnesses to be examined upon oath, &c., before arbitrators.

XIX. Every witness examined before the arbitrators shall be examined upon oath or affirmation to be administered by or made before the said arbitrators.

XX. On the close of the enquiry, the arbitrators, or a majority of them, shall deliver a full and complete award in respect of the matter referred to them, and shall therein specify (as the nature of the case may require) the amount and particulars of compensation awarded by them, the persons entitled to compensation, and the proportions in which they are so entitled.

XXI. The arbitrators on making their award shall be entitled to reasonable fees for their services, the amount of which shall be fixed by the Collector or other Officer subject to the orders of the Commissioner or other superior Revenue authority.

XXII. The award shall declare the costs of the arbitration and by whom and in what proportion they shall be paid. All costs, including the fees of the arbitrators, incurred for the purpose only of determining the amount of compensation to be allowed for the land, shall be charged to the Government, unless the arbitrators shall award as compensation the same, or a less sum than shall have been offered by the Collector or other Officer, in which case each party shall bear his own costs so incurred and shall also pay a moiety of the fees of the arbitrators. Costs incurred for determining the appointment of the compensation among the persons interested shall be paid by such persons in such proportions as the arbitrators shall direct.

Proceedings of the arbitration to be deposited in the Collector's Office. Copy of award signed, &c., by him to be evidence.

XXIII. The proceedings of the arbitration shall be deposited in the office of the Collector or other Officer; and every person interested therein shall be entitled to a copy of the award on plain paper, under the seal and signature of the Collector or other Officer, which copy shall be *prima facie* evidence thereof.

XXIV. When any land is taken under the provisions of this Act, the amount of compensation to be awarded shall include any damage which may be sustained by any of the persons interested therein in respect of any adjoining land held therewith.

Compensation to include damage done to adjoining land. If compensation be awarded for damage sustained as well as for value of the land, the amount of damage shall be specified separately in the award.

XXV. If any compensation beyond the value of the land be awarded on account of any damage which may be sustained by any person interested in the land, the award shall specify the value of the land and the amount of such damage separately, and also the name of the person to whom compensation for damage is awarded.

XXVI. When any land taken under this Act forms part of an estate paying revenue to Government, the award shall specify the nett rent of the land including the Government Revenue, and the computed value of such rent: and it shall be at the discretion of the Revenue authorities either to pay over the whole of such value to the owner of the estate on the condition of his continuing to pay the jumma thereof without abatement; or to determine what proportion of the nett rent shall be allowed as a remission of revenue, in which case a deduction shall be made from the said value proportionate to the value of such remission.

XXVII. When the amount of compensation to be paid for land taken under the provisions of this Act is determined by the award of the Collector or other Officer under Section v., he shall pay the amount awarded at the time when possession is taken of the land on account of Government. When the compensation is determined by the award of arbitrators under Section xx., the Collector or other Officer shall pay the amount awarded with interest at the rate of six per centum per annum from the time when possession was taken of the land on account of Government.



**XXVIII.** Except as provided in the next following Section, payment of the compensation shall be made, according to the award, to the persons named therein. Provided always that nothing in this Act contained shall effect the liability of any person who may receive the compensation awarded for any land or any portion of such compensation to pay the same to the person lawfully entitled thereto.

Payment of compensation to whom to be made.

Proviso.

**XXIX.** If there exist any ground which, in the judgment of the Collector or other Officer, renders it improper to make immediate payment of the compensation, or of any portion thereof, to any of the persons having or claiming any interest in the land or in the compensation awarded in respect thereof, the amount, or such portion of the amount as he may deem sufficient, shall be invested in Government Securities, and held in deposit until an order of Court shall be obtained for the payment thereof. Such order shall be obtained in the Court which would have had jurisdiction in respect of the land taken.

Payment of compensation may in certain cases be deferred.

Amount to be held in deposit until an order of Court is obtained for payment thereof.

What Court to have jurisdiction to make the order

**XXX.** If the land taken be within the local limits of any of Her Majesty's Supreme Courts of Judicature, and the amount of compensation awarded do not exceed five hundred Rupees, the order may be made by the Court of Small Causes.

In certain cases the Small Cause Court may order payment.

**XXXI.** No award of arbitrators made in accordance with the provisions of this Act, shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators to be appointed in the same manner as the first. All suits to set aside an award under this Act shall be instituted within three months from the date of the award.

Reversal or alteration of award.

Limitation of suits to set aside an award.

**XXXII.** The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house or other building or manufactory, if the owner desire that the whole of such house, building, or manufactory shall be taken.

A part of a house or building not to be taken.

**XXXIII.** Whenever any land is needed for a road, canal, railway, or the like, and the local Government makes the declaration provided in Section ii., it shall not be necessary to specify the extent, limits, or position of the land, but it shall be sufficient to declare the general direction of the line of the work and the average breadth of the land required for the same.

When land is needed for a road, canal, &c., the general direction of the line shall be declared.

**XXXIV.** When any declaration has been made under the provisions of Section ii. of this Act, the Collector or other Officer may authorize any person, with his servants and workmen, to enter upon the land for the purpose of making a survey thereof; and in the case of a road, canal, or railway, to set out the intended line thereof, and to mark such line by cutting a trench or placing land-marks; and where otherwise the survey cannot be completed, and the line marked, to cut down and clear away any part of any jungle or tope of trees in the direction of the intended line. Provided that no person shall enter into any house or building or upon the curtilage of any house or any enclosed garden (unless with the consent of the occupier thereof) without previously giving the said occupier twenty-four hours' notice of his intention to do so.

After declaration, persons authorized may enter upon the land and make a survey.

Line of road may be marked out.

Land may be cleared.

Previous notice of entry to be given to occupiers of houses, &c.

**XXXV.** It shall be the duty of the Collector or other Officer to take account of all necessary damage done, as aforesaid, and forthwith to offer payment for the same to the persons interested. In case the offer is not accepted, the damage shall be allowed for in the compensation to be awarded.

Account of damage to be taken and payment to be offered.

**XXXVI.** Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal, or railway, or wilfully destroys, damages, or displaces any land-mark, or effaces or fills any trench intended to mark such line, shall, on conviction, be liable to be imprisoned for any term not exceeding six months, or to fine not exceeding two hundred Rupees, or to both.

**XXXVII.** *Repealed by Section i., Act II. of 1861.*

**XXXVIII.** In any proceedings under this Act, the following persons shall be deemed persons entitled to act as and to the extent hereinafter provided, (that is to say)—a trustee or trustees for other persons beneficially interested shall in all cases be deemed the person or persons entitled to act with reference to any such proceedings, and that to the same extent as the persons beneficially interested could have acted if free from disability. A married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age. The guardians of minors and the Committees of lunatics or idiots shall be deemed respectively the persons so entitled to act to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted.

**XXXIX.** The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction (that is to say)—

The words "the local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories in the possession and under the Government of the East India Company in which the land in question is situate; and shall include any Chief-Commissioner or other Chief Civil Officer of a Province whom the Governor General in Council may authorize to exercise the powers vested by this Act in the local Government.

The word "land" shall extend to tenements and hereditaments of any tenure, and all houses, buildings, trees, or appurtenances thereupon, as well as land.

The expression "person interested in the land" shall include all persons interested in the land, either for life or for years, or in remainder, reversion, or succession, and all mortgagees, leaseholders, or tenants, not being tenants, by the month or at will of such land.

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word "person" shall include a corporation.

## ACT II. OF 1861.

*(Received the assent of the Governor General on the 20th January 1861.)*

*An Act to amend Act VI. of 1857 (for the acquisition of land for public purposes).*

**Preamble.** WHEREAS it is expedient to amend Act VI. of 1857 (for the acquisition of land for public purposes); It is enacted as follows:—

**Sections repealed.** 1. Sections ix. and xxxvii. of Act VI. of 1857 are hereby repealed.

**II.** Within the Presidency Towns of Calcutta, Madras, and Bombay, and within the Settlement of Prince of Wales' Island, Singapore, and Malacca, if the Collector or other Officer is opposed or impeded in taking possession, under Act VI. of 1857, of land required for public purposes, he shall apply to the Commissioner of Police of the Town or Station, who shall enforce the surrender of the land.



### III. The powers conferred by Act VI. of 1857 shall extend, in the case of any

Temporary occupation  
and use of adjacent land.

Road, Canal, or Railway, to authorize the temporary occupation of any land not more than one hundred yards from the centre line of the Road, Canal, or Railway, as marked on the ground for taking earth or other materials for making or repairing the Road, Canal, or Railway, or for depositing thereon superfluous earth or other materials, or erecting temporary buildings and workshops thereon; and of any land which may be needed for making temporary Roads or Railways from any public road or any navigable river to the intended line of Railway: and for the temporary occupation of any such

Compensation for temporary occupation and for permanent damage.

land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay stone, gravel, sand, and other materials taken thence, compensation shall be paid to and among all persons having an interest therein, to be ascertained, in case of disagreement, in the same manner as compensation for land permanently taken.

### IV. When the Local Government shall be satisfied that in any special case the

Occupation and use of  
adjacent land beyond the  
limits prescribed in pre-  
ceding Section.

provisions of the last preceding Section of this Act are inadequate for the purpose of taking ballast or of brickmaking or of quarrying for building stone or lime stone, and that it is expedient that land should be temporarily occupied beyond the limits prescribed in the said last preceding Section, it shall be competent to the Local Government to extend the provisions of that Section to any uncultivated land situated within two miles from the centre line of the Road, Canal, or Railway, provided that the land to be so occupied be not worked or used by the owner or any other person in occupation thereof for the purpose or purposes in this Section mentioned, at the time that a declaration shall be made with respect to the land aforesaid, under the provisions of Section ii. of Act VI. of 1857.

### V. In any case in which the Local Government shall exercise the power vested

Owner may in certain  
cases require the land  
to be permanently occu-  
pied.

in it by the last foregoing Section, it shall be competent to the person or all the persons to whom compensation would be payable, at any time, before he or they shall have agreed to the compensation awarded by the Collector or other Officer, or before the Collector or other Officer shall have referred the matter to arbitration, to require the land in question to be permanently taken, and the value thereof to be awarded in the manner prescribed in Sections v. and vi. of Act VI. of 1857. Such person or persons shall make an application in writing to the Collector or other Officer on behalf of Government, and on receipt thereof the Collector shall be bound to take the land on behalf of Government as required, or forego the temporary occupation of the same.

Construction.

VI. This Act shall be read with and taken as a part of Act VI. of 1857.

## ACT XXII. OF 1863.

(Received the assent of the Governor General on the 10th March 1863.)

*An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.*

WHEREAS it is expedient to enable the Government to take land for the construction of works of public utility by private persons or Companies; and whereas it is proper, at the same time to

Preamble.

protect the rights of all persons from whom land shall be so taken, or be proposed to be taken; and also to determine the manner in which such works may be undertaken, and shall be managed after their construction; as well as to secure to the public, under suitable regulations, the use of works constructed on land so taken; It is enacted as follows:—

## AS TO THE CONSTRUCTION OF THE ACT.

I. The following words and expressions shall have the several meanings hereby assigned to them, unless when a contrary intention appears from the context.

**Interpretation.** Words in the singular number shall include the plural, and words in the plural shall include the singular.

**Number.** Words importing the masculine gender shall include females.

**Gender.** The words "the Work" shall signify the public work proposed to be undertaken.

**"The Work."** The words "Local Government" shall mean the head of the Executive Administration of the Province in which the public work is proposed to be constructed.

**The words "Local Government."** The words "the Collector" shall include any Officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

**The words "the Collector."** The words "the Promoters" shall mean the person or persons who propose to construct the work, or are empowered to construct it, whether a single person or a Company.

**The words "the Promoters."** The words "Work under this Act" shall imply a work definitely registered as hereinafter provided by this Act.

**"Work under this Act."** The words "the Owners" or "the Company" shall signify the parties in charge of any public work under this Act, or referred to in this Act, whether as promoters, proprietors, lessees, agents, assignees, or otherwise, and whether a single person or a Company.

**The words "the Owners" or "the Company."** The word "Lands" shall include messuages, lands, tenements, and hereditaments, of any tenure.

**"Lands."** The word "Conditions" shall signify the special conditions of agreement between the promoters or owners of a work under this Act and the Government, referred to in Section xv. of this Act.

**The word "Conditions."** The word "Toll" shall include any rate, or charge, or other payment, to be made for any use of a work under this Act, or for any service performed in connection with the use of any such work.

**"Toll."** II. A work of public utility within this Act shall be held to mean any bridge, road, railroad, tramroad, canal for irrigation or navigation,

**What to be deemed works of public utility.** work for the improvement of a river or harbour, dock, quay, jetty, drainage work, or electric telegraph; also all works subsidiary to any such work. It shall be lawful for the Governor-General in Council, from time to time, by a declaration to be made to that effect, and published in the *Official Gazette* to order that any other class of works, or any particular work other than those named above, shall be included among works of public utility within this Act.

**Governor-General may vest certain Officers with powers conferred by this Act on Local Government.** III. It shall be lawful for the Governor-General of India in Council, to vest the principal Executive Officer of any territory under the immediate administration of the Governor-General in Council, with any or all of the powers vested by this Act in the Local Government of such territory.

## AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS.

IV. The promoters of any work of public utility, who shall desire to proceed under this Act, shall make a preliminary application in writing to the Local Government, explaining the general object and nature of the work, and its intended locality. Every such application shall further be accompanied by a statement of the estimated cost of the construction of the said work, and the mode in which the promoters propose to provide the funds for constructing, maintaining, and working, the same.

**Promoters to make preliminary application, accompanied by statement.**

V. If the Local Government shall not be satisfied with any such application, or statement, it may reject it; or it may call on the promoters to supply any further information, or to amend such application, or statement, on any point on which such further information or amendment shall to the Local Government seem requisite.

VI. If the promoters shall desire to undertake any preliminary survey on account of the proposed work, before preparing and submitting the statement aforesaid, they shall declare the same in their preliminary application; and it shall be lawful for the Local Government, if satisfied of the expediency of permitting such survey, to issue a certificate authorizing the same. Such certificate shall declare the names of the promoters entitled to use it; the time for which it shall be in force, and the District or Districts or locality for which it shall be valid; and shall contain such further regulations, for the guidance of the persons using the certificate, as to the Local Government shall seem fit. The promoters named in such certificate, and such other persons as the promoters shall name, in a list to be furnished to the Chief Officer charged with the Executive Administration of each District in which the proposed work is to be constructed, shall be authorized to enter upon any lands, in the manner and for the time declared in such certificate, to undertake any survey or other investigation necessary for the proper prosecution of the proposed work; and while acting under the authority given in the said certificate, such promoters and other persons aforesaid shall be deemed to be public servants, whose duty it is to make a survey, under Clause 10 of Section xxi. of the Indian Penal Code. Provided that such promoters and other persons shall not be authorized to enter any house, or building, or the curtilage of any house, or enclosed garden, without the assent of the occupier; or to cut down any tree, or otherwise injure or destroy any property. Provided also that such promoters and other persons aforesaid shall, while acting under the authority of such certificate, be liable as public servants, for any offence described in Chapter IX. of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

VII. It shall be lawful for the Local Government, before issuing a certificate as aforesaid, to call on the promoters to deposit, as caution money, such sum, and in such manner, as the Local Government shall in each case determine; to be applied by the Local Government to make good any damage done in the course of such survey, by the promoters or other persons using the said certificate. The promoters shall be entitled, on their demand, to receive back, after the expiry of such certificate, and after the payment of any claim for damage which shall have been proved to the satisfaction of the Local Government, any surplus remaining in the hands of such Government.

VIII. It shall be lawful for the Local Government, at any time prior to the provisional registration of a public work under this Act as hereinafter provided, to cancel a certificate granted under Section vi. of this Act, if it shall appear to such Local Government that the powers granted by such certificate have been abused, or for any other sufficient reason.

IX. The promoters shall, at the time when they submit their preliminary application to the Local Government, publish the same, and if they so desire, the statement that accompanies it, in the *Official Gazette*, and also, if possible, in at least two Newspapers (one of which shall be in English) in the Province in which the work is proposed to be executed; and shall repeat such publication, at least six times, within a period of two months from the date of submission of such application to the Local Government: the promoters shall further cause to be delivered, with all reasonable despatch, and within a period not exceeding two months, to the Collector of every District in which any part of such work is proposed to be constructed, or such other Officer as the Local Government shall from time to time direct, six copies of such applica-



tion, with a faithful translation of the same into the vernacular language of the District ; and shall in like manner publish from time to time and deliver as aforesaid, copies and translations of any amended applications submitted to the Local Government.

X. The Collector or other Officer as aforesaid shall, on receipt of the preliminary application, publish the same in English, and in the Vernacular language of the District, in the localities where the work is proposed to be constructed, in such manner as to him seems best.

XI. At any time not sooner than four months after the receipt of the said application, or if the application be amended, then within four months after the receipt of such amended application, the Local Government, on being satisfied by the promoters that the above conditions have been complied with, shall be authorized to consider finally such application, and any objections that shall have been raised against the construction of the proposed work ; and to declare whether the said work may be provisionally registered under this Act or not.

XII. Before declaring that any work may be provisionally registered under this Act, being a Railway, or tramway, in continuation of or forming a branch of any existing line ; or being a line that might reasonably be expected to be united with any existing Railway, either as a continuation, or a branch ; and at the same time being at some one point within fifty miles' distance of such existing Railway, the Local Government shall afford, to the owners of such existing line, reasonable time and opportunity to declare whether they offer any opposition to the registration of the proposed line ; and on a full consideration of such opposition, and of the application of the promoters, and of any objections aforesaid, and of the relative public advantages of all proposals made in the matter the Local Government shall be authorized to declare its decision on the said application.

XIII. Previously to deciding that the said work shall be provisionally registered under this Act, it shall be lawful for the Local Government, and may also appoint a Commission to enquire into particulars. if it shall think fit, to appoint a Commission of one or more persons, who may be Government Officers, to enquire into the general object and nature of the said work ; its intended locality, and probable utility ; its estimated cost ; the grounds of any opposition to the said work ; and any other matter connected with the said work, on which such Local Government shall desire to be satisfied. For the purposes of such enquiry, such Commission shall have power to take evidence ; and for obtaining the attendance, and for the examination, of witnesses, may exercise the powers of a Civil Court under the Code of Civil Procedure.

On report of Commission, Local Government to decide as to registry. registered.

XIV. On the receipt of the Report of the Commission appointed under the last preceding Section, the Local Government shall decide if the said work shall be provisionally registered.

XV. Before declaring its decision as aforesaid, the Local Government shall, subject to such general or special instructions as the Governor General of India in Council shall, from time to time, lay down, prescribe the conditions which such Local Government shall consider it necessary to impose on the promoters, having regard to the special circumstances of each case in respect to the provision and payment of the price of the land for the proposed work ; the construction, maintenance, or working of the same ; the regulation of the use of the work, as regards the security and convenience of the public ; and such other matters as to the Local Government may from time to time seem right ; and the Local Government shall inform the promoters of such conditions.

XVI. The Local Government, on causing a work to be provisionally registered under this Act, shall determine for what period, being not less than six months, such registry shall be in force. And at any time, within such period, the promoters may claim to have the registry made definitive as hereinafter provided.

Duration of provisional registry and right to have it made definitive,

**XVII.** Unless for any cause the Local Government shall otherwise determine, the promoters, before they are entitled to claim the definitive registry of the proposed work, shall deposit with the Government in such manner as shall be approved by the Local Government, a sum to be fixed in each case by the Local Government, but not exceeding ten per cent. on the whole estimated cost of the said work, as caution money; to be disposed of in the manner agreed in the said conditions, unless it be otherwise dealt with as hereinafter provided. And any sum remaining in the hands of the Local Government, from any caution money lodged under Section vii. of this Act, shall be held to be a payment in part of the caution money required under this Section.

**XVIII.** The promoters, before such claim for definitive registry shall be admitted, shall further complete an agreement with the Secretary of State for India in Council, through the Government, under the conditions aforesaid or under such other conditions as may be agreed between the said promoters and the Local Government. And thereupon the Local Government shall cause such agreement with the conditions thereof, to be published in the *Official Gazette*; and shall declare that the work is definitively registered as a public work under this Act.

**XIX.** It shall be lawful for the Local Government, on the application of the promoters of any public work under this Act, to cause to be definitively registered under this Act, any public work undertaken by such promoters, under an agreement entered into previously to the passing of this Act with the Secretary of State, or the Government of India, or any Local Government, as though such work had been proposed to be undertaken under the provisions of this Act hereinbefore contained. Provided that, at the time of so registering any work, the Local Government shall cause the said contract to be published in the *Official Gazette*, with all the conditions attaching thereto; and declare that the said work has been so registered definitively.

**XX.** It shall be lawful for the Local Government to apply any land in its lawful possession, also any public road or place, for the purposes of any public work under this Act, to be constructed at the expense and risk of the promoters of such work. Provided that every such work shall be definitively registered accordingly, and that the conditions under which such work is undertaken shall be published in the *Official Gazette*; also that the prosecution and construction of every such work shall be subject to the provisions of Section xii. of this Act.

**XXI.** The Local Government may, from time to time, with the assent of the owners of any work under this Act, vary the conditions to be agreed to under Section xv. of this Act. Provided that such variation shall forthwith be published in the *Official Gazette*; and that, after such publication, the amended conditions shall be in force in supersession of those first made.

**XXII.** After the definitive registry of any work under this Act, it shall be lawful for the Local Government, from time to time, in such wise as to it shall appear fit, to issue certificates to authorize the promoters, their servants, and agents, to enter upon any lands, and to undertake such surveys or levels, or other examinations, as may be necessary for the proper prosecution of the said work; also to dig and bore into the sub-soil, and to indicate the intended boundaries of the land to be taken, and the positions of the proposed works, by suitable landmarks; and to perform all other necessary preliminary acts of the like nature:

and such certificates shall declare the names of the persons entitled to use them, the time for which they shall be in force, and the Districts or locality for which they shall be valid; and shall contain such further regulations, for the guidance of the persons using them, as to the Local Government shall seem fit. And while acting under the authority given in the said certificate, such persons shall be deemed to be public servants,



whose duty it is to make a survey under Clause 10 of Section xxi. of the Indian Penal Code. Provided, however, that such persons shall not enter any house, or building, or the curtilage of any house, or enclosed garden, without giving twenty-four hours' notice, or without the assent of the occupier thereof; nor shall they cut down

Proviso limiting authority.

any tree, or otherwise injure or destroy any property, unless the same be essentially necessary. Provided also, that such persons, while acting under the authority of such certificate, shall be liable as public servants, for any offence described in Chapter IX. of the said Indian Penal Code, to the penalty provided in the Chapter for such offence.

XXIII. The promoters shall, on the completion of the necessary surveys and

On completion of surveys, &c., promoters to submit drawings, &c.

the like, submit to the Local Government such drawings, maps, and plans, of the proposed work, as well as of the land required for it, as the Local Government shall in each case require. And thereupon a Local Government shall appoint

Appointment of Commissioners to examine same and settle details.

one or more Commissioners, who may be Government Officers, to examine the said drawings, maps, and plans, and to determine finally, in concert with the promoters or their agents all matters of detail in respect of the exact position of the work, or of the parts thereof, as well as the boundaries of the land to be taken for the said work; and shall notify such appointment in the *Official Gazette*; and shall cause such Notification to be published in the District where the work is proposed to be undertaken, in such manner as shall seem best to the Local Government.

XXIV. The Commissioners appointed under the last preceding Section shall proceed

Commissioners how to proceed.

at any time, but not sooner than thirty days after such Notification, to settle, in concert with the promoters or their agents, the exact position of the work, or of the parts thereof; and thereafter, with all practicable despatch, to examine the boundaries of the land proposed to be taken for the work; and the said Commissioners may

May call for variation of project, &c.

call upon the promoters to make any variation in their project and in the position of the works, or any part of them, and in the boundaries of the land proposed to be taken, that may to the said Commissioners seem necessary, to secure the safety or convenience of the public, or to prevent any undue interference with private property, or for any other reasonable cause; and any such variation, if agreed to by the promoters, shall thereon be considered to be finally adopted; but if the

Provision for case of promoters not agreeing thereto.

promoters shall not agree, the question in dispute shall be submitted to the Local Government, and the decision of the Local Government shall be final; provided that the promoters shall not be bound to carry out the proposed work, if any variation be insisted upon by the Local Government, to which the promoters will not assent.

Extension of periods allowed for notices, &c.

XXV. The Local Government shall be authorized to extend the periods allowed for giving any notices, or for performing any acts, required under the foregoing Sections, as from time to time may seem to it proper.

AS TO THE TAKING LANDS, THE TITLE THEREIN, AND THE PAYMENT THEREFOR.

XXVI. When the boundaries of the land required for the work shall have

On settlement of boundaries &c., Local Government to issue declaration as to land being required.

authorized to certify

And may thereafter proceed to take the same.

been settled as aforesaid, and the promoters shall have caused the said land to be measured, and suitable land-plans to be prepared of the same, the Local Government shall cause a declaration to be made, under the signature of a Secretary to such Government, or some Officer duly authorized by the orders of the Local Government, that the land aforesaid is required for the said work; and such declaration shall be conclusive that the land may be taken under this Act. After making such declaration, the Local Government may proceed to take any such land, as though it had been required to be taken at the public expense, and for a public purpose; and as though a declaration had

been made as required under Act VI. of 1857 (*for the acquisition of land for public purposes.*)

XXVII. The boundaries, as determined by the Commissioners, and the plans

Rule as to boundaries, and measurements aforesaid, of the said land, when verified plans, and measurements, and found to be correct, or when duly corrected by the Collector, or other Officer, appointed to proceed under the said Act VI. of 1857, shall be held to be the boundaries, plans, and measurements, required under Section iv. of the said Act, so far as the said lands are concerned.

XXVIII. If at any time land shall be required for any necessary or reasonable extension of, or addition to, any work under this Act, it

Preliminary proceedings and declaration by Local Government, as to land required for extension of, or addition to, work under Act.

shall be lawful for the Local Government to make all requisite declarations for the purpose of obtaining such land under this Act, after such and only such of the preliminary proceedings and enquiries, hereinbefore required, as to the Local Government shall in each case seem sufficient for the protection of the rights of the public, and of individuals that nothing shall be done contrary to the provisions of Section xii. of this Act; and that all proceedings for the actual taking possession of the land shall be conducted in accordance with the provisions of the said Act VI. of 1857.

Provido.

Taking land for temporary purpose.

XXIX. Land may be taken under this Act for a temporary purpose, in like manner as under the said Act VI. of 1857.

XXX. All land taken under this Act shall vest absolutely in the Local Govern-

Right, powers, and responsibilities of Local Government, as to land taken under Act.

ment, as though it had been taken for a public purpose under the said Act VI. of 1857; and it shall be lawful for the Local Government to dispose of any land taken under this Act, the whole or any part of which shall not be required for the purpose for which it was taken, in any manner that it may think fit. The Local Government alone shall be responsible for the payment of all claims on account of such land, to all persons whatever; and the promoters shall in no wise be responsible for any such payment, otherwise than to the Local Government; and then only as is herein declared and provided, and as shall be specially agreed in the conditions aforesaid.

XXXI. When all the conditions as aforesaid, applicable to the transfer of the

Promoters when to be placed in possession of land.

land to the promoters shall have been fully complied with, and not till then, the Government shall cause the promoters to be placed in possession of such land, in accordance with such conditions. The title of the Local Government, or of the promoters, to such land, shall not be liable to be questioned on account of any informality in any proceeding taken under this Act.

XXXII. All expenses attending the proceedings of the Commissioners to be

Expenses to be paid by promoters.

appointed under Section XXIII. of this Act, and all expenses incurred by the Local Government in taking up the land required for the promoters under the said Act VI. of 1857, shall be paid by the said promoters, unless otherwise specially agreed. The Local Government shall determine the sum due on account of such expenses, and shall be authorized to deduct such amount from any sum lodged as caution money as aforesaid, if it be not otherwise paid by the promoters; and any sum remain-

ing unpaid, both as aforesaid, and on account of land or compensation, for which the promoters are liable under the said conditions, may, on the order of the Local Government to that effect, be levied by distress and sale on the said promoters, in the manner provided for distress and sale under Civil process.

XXXIII. The promoters shall further be liable for all damage done in any of

Liability of promoters for damage done in preliminary operations.

Provision for satisfaction of claims on account of damage.

their preliminary operations, and shall duly satisfy and pay all claims of this description; and if, at the time of taking possession of the land required for the promoters, it shall appear that any such claim remains unsatisfied, the Collector or other Officer, acting under the said Act VI. of 1857 in respect of such land, shall be authorized to determine all

such claims summarily, as though they had been claims arising under the said Act; and all payments on account of such claims shall be made good by the promoters, as under the last preceding Section.

#### AS TO THE PUBLIC USE OF WORKS.

**XXXIV.** Every work under this Act shall be available for the use of the public in accordance with, and to the extent provided by, the conditions aforesaid, or any Act at the time being in force, but not otherwise; and after the publication of the conditions relating to any such works, in the *Official Gazette*, all Courts may take judicial notice of the same; and it shall be lawful for any person whatsoever to sue the owners of such work, for any damage he may incur by reason of any neglect of the said conditions, by the said owners, in respect of any such public use of such work, as though such person had been party to the said conditions.

Works under Act how far available for public use.

Courts may take cognizance of conditions relating to same, and owners may be sued for damage resulting from neglect.

**XXXV.** The owners of any work under this Act shall be authorized to levy such tolls, in such manner, as shall be fixed in accordance with the conditions aforesaid; also to refuse the use of such work, and to refuse to perform any service in connection therewith, unless such tolls shall be paid in the manner fixed aforesaid; as well as to detain any thing or animal on which such tolls shall be due, and to sell the same, if the said tolls shall remain unpaid after a reasonable time has been allowed to elapse for the payment of the same. Provided that no such tolls shall be demanded or taken at any place, unless proper tables and lists of such tolls be exhibited at such place, in the manner fixed as aforesaid.

Proviso.

#### AS TO THE CONSTRUCTION OF THE WORKS AND THE INSPECTION OF THE SAME.

**XXXVI.** The Local Government may appoint Inspectors to inspect any work under this Act, also all things appertaining thereto, and to the working of the same; but not books or documents otherwise than as shall be provided in the conditions aforesaid. The owners of such work, and all persons authorized by them to use the same in connection with any public use of the said work, and their servants and agents, shall be bound to afford to such Inspectors all reasonable facility for their inspection, and all such information as may be reasonably required by them.

Inspection of works.

If report of Inspector show cause. Local Government may order use of work to be suspended until defects are remedied.

**XXXVII.** If it appear to the Local Government upon the report of any Inspector, that the use of any work under this Act cannot be continued without danger to the public, or to the persons employed thereon; or that rules, adequate to the protection of the public under the provisions of this Act, have not been framed and put in force; or that the conditions agreed upon under Section xi. of this Act have not been carried out, the Local Government may order that all defects shall be made good within a reasonable specified time; and in default of the owners of such work complying with such order, within such time, or such further time as the Local Government shall appoint, the Local Government shall be empowered to direct that the use of such work shall be suspended, until the defects aforesaid shall be remedied to the satisfaction of the Local Government.

**XXXVIII.** The Local Government may, at any time, on the report of an Inspector during the construction of any work under this Act, direct the promoters to construct, in connection therewith, such culverts, bridges, tunnels, drains, or other works, as may be considered by the Local Government to be necessary, to continue to the public any roads, or rights of way, or easements, or the use of any water theretofore available; and to make due provision for the irrigation and drainage of the country, so as to prevent the same from being impeded, or unnecessarily altered, by the construction of the said work. If default be made in complying with any directions given under the provisions of this Section, the Local Government may order the prosecution of the work to be stopped, until such directions shall be complied with to the satisfaction of the Local Government.

Local Government may direct construction of subsidiary works.

And in default of compliance, may stop work.



XXXIX. Nothing in the last preceding Section shall be construed to render the promoters liable to construct any work, or to undertake any thing, at variance with the special conditions of agreement under Section xv. of this Act.

Saving as to matters at variance with special conditions.

XL. The owners of every Railway under this Act, being of the gauge of five feet six inches, shall be bound, unless specially exempted by the Governor-General of India in Council, to erect all the fixed structures, and to construct all the rolling stock, in conformity with the standard dimensions determined in that behalf from time to time by the Governor-General of India in Council; and

Fixed structures, &c. on Railway of certain gauge, to be of standard dimensions.

it shall be lawful for the Local Government to order the said owners to make good all defects in such structures or rolling stock, and to suspend their use until such defects shall be made good to the satisfaction of the Local Government.

XLI. The provisions of Act XVIII. of 1854 (*relating to Railways in India*), shall apply to all Railways, under this Act; provided that, in respect of such Railways the Local Government shall be authorized to determine, from time to time, the extent to which fences

shall be constructed under Section xx. of the said Act XVIII. of 1854, and that the owners of such Railways shall not be liable to maintain fences, under the said Section, otherwise than as shall be so determined.

XLII. In case any doubt shall at any time arise, as to the necessity for constructing or altering any work, to ensure the safety of the public, or to provide for established public rights of way or other public rights of any sort, in connection with any work under this Act, the decision of the Local Government on such subject shall be final, and shall not be liable to be called

Decision of Local Government on questions concerning public safety, &c.

in question in any Court of Justice.

XLIII. If the owners of a Railway under this Act shall desire to form a connection with any existing Railway of the same gauge, the owners of the new line shall be authorized to call on the owners of the old line to effect the junction; and if the owners of the old line shall not proceed to effect the junction within a reasonable time, the Local Government, on being satisfied that the junction may be made with safety to the public, and without injury to the existing Railway, or detriment to traffic thereon, may authorize the owners of the proposed line to form the junction, and to do all necessary acts in that behalf, and to lay down such additional lines of rails, points, and crossings, as may be necessary for the purpose, at such time and in such manner as the Local Government shall direct.

Provided that, if the junction be effected by the owners of the previously existing Railway, the expense of forming the junction, of supplying all necessary works, and of keeping the same, shall be paid by the owners of the new line.

As to expenses.

in repair and renewing

XLIV. If any difference shall arise, as to the terms on which the traffic of a branch or junction line of Railway under this Act shall pass over, or upon, any other line with which it shall be connected; or as to the manner and times of conducting the traffic, or of regulating the same, over the two lines, or either of them; or as to any matter touching any line under this Act, used in common by two or more Companies, the Local Government shall be authorized, on the application of either or any one of the said Companies to hear and determine all such differences; and any order given by the Local Government in such a case shall be final and binding on all parties. Provided that no order shall be

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so given at variance with any condition of any agreement, between the Government and any of the said Companies, that shall be applicable to the said lines of Railway.

#### AS TO THE MAKING OF BYE-LAWS.

XLV. It shall be lawful for the owners of any work under this Act, to make Bye-Laws and Regulations for the guidance of their servants and agents, and of persons employed by them, and for the maintenance of order in the use of such work; and to provide for the safety and convenience of the public or of the persons

Power of owners to make Bye-Laws and Regulations.

employed on such work; and all such Bye-Laws and Regulations shall be subject to the approval of the Local Government; and when so approved all Courts and Magistrates shall take judicial notice of the same; and the Local Government shall be authorized to cause

Subject to approval and alteration.

any alterations to be made in the Bye-Laws and Regulations, so made and approved as to the Local Government shall from time to time seem proper. Provided that

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such Bye-Laws and Regulations be not repugnant to any Law in force in the British Territories in India; and that no penalty shall be attached to the infringement of any such Bye-Law or Regulation exceeding a fine of fifty Rupees.

**XLVI.** Such Bye-Laws and Regulations affecting the public shall be published, and the substance of them shall be notified, in such places on the said work, and in such manner, as the Local Government shall from time to time approve or direct; and no penalty shall be recoverable under such Bye-Laws or Regulations, unless the same shall have been published and kept published as aforesaid.

Publication of Bye-Laws, and notification of substance of same.

**XLVII.** In the case of a Railway under this Act, being of the gauge of five feet and six inches, it is further provided that the Bye-Laws and Regulations shall, unless the Governor-General of India in Council shall otherwise permit, conform in every respect to the Regulations for Railway Companies under the said Act **XVIII.** of 1854.

Provision as to Bye-Laws in the case of a Railway under Act, of 5½ feet gauge.

#### AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK.

**XLVIII.** No lands taken or supplied by Government for any work under this Act; no tree, building, or structure standing on such lands; no machinery nor permanent way fixed to the soil on such lands; nor anything whatsoever on which the Local Government shall be entitled to re-enter, or of which it shall be entitled to take possession, without payment, on the determination from any cause, of the agreement between the Local Government and the promoters, under the conditions aforesaid, shall, without the consent of the Local Government, be liable to be seized or applied in satisfaction of any debts or liabilities of any sort of the promoters; nor, without such consent, shall the promoters alienate the same, or any part thereof, in any way not provided for, or consonant with such agreement or conditions.

Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters, without consent of Local Government.

**XLIX.** If the owners of a work under this Act shall voluntarily determine to wind up their affairs; or shall be so directed by an order of Court; or shall abandon or determine to abandon such work; or shall commit an act of Bankruptcy or Insolvency, it shall be lawful for the Local Government thereupon to terminate all contracts then existing between it and the promoters, in respect of such work; and to re-enter upon and take possession of all things whatsoever, to which the Local Government shall be so entitled, under the conditions of such contracts; also of all lands taken at the public expense, or supplied to the said promoters free of cost; together with all trees, buildings, and structures, standing on such lands; as well as all machinery and permanent way fixed to the soil on such lands. Provided that nothing shall be so taken, which shall be expressly excluded from such liability under the conditions aforesaid. But the Local Government shall be bound to surrender, to a lawful claimant, all moveable property of which it shall at any time obtain possession from the promoters otherwise than by purchase, which shall not have been fully paid for by the promoters; or in lieu of such surrender, if the Local Government shall so determine, to satisfy all just outstanding claims on account of such property: provided that no such surrender shall be obligatory, and no such claim shall be entertained, in respect of anything that shall have been delivered to the said promoters more than twelve months before the date of such surrender being required, or of such claim being made known to the Local Government.

Saving of moveable property in certain cases.

Proviso.



## AS TO MINES NEAR ANY WORK.

L. Whenever land shall be taken under this Act, for the construction of any work, the taking thereof shall not be held to convey, or include, the right to any mine of coal, or other minerals, lying under such land; except only such part thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless compensation for the same shall have been expressly allowed in the award made in favor of the persons interested in the land.

LI. If the owner, lessee, or occupier, of any mine of coal, or of any other mineral, lying immediately under any work under this Act, or within forty yards therefrom, shall work the same, it shall be competent to the Local Government, on the application of the promoters of such work, to require such person to abandon such working; or so to work the same as not to endanger the said work, and to construct the works necessary to make it safe. Provided that compensation shall be awarded to such owner, lessee, or occupier, in the manner provided for in the said Act VI. of 1857, for any loss sustained by him from being compelled to abandon or alter his mode of working the mine; and also for any necessary works constructed by him (when so required as aforesaid) in order to prevent damage to the said work; but all damage or loss to the promoters, arising from any improper working of such mines, shall be at the risk of the owners, lessees, or occupiers, of the said mines, and shall be made good by them.

## AS TO OFFENCES, AND THE RECOVERY OF PENALTIES.

LII. Whoever shall obstruct, or commit any contempt of the lawful authority of, any public servant in the discharge of any function, or in the performance of anything undertaken, under this Act; or shall commit mischief by destroying, defacing, or removing, any land-mark fixed by the authority of any such public servant, shall be punishable under the provisions of the Indian Penal Code.

Recovery of penalties for offences under Bye-laws.

Act XVIII. of 1854.

LIII. All penalties for offences under the Bye-laws and Regulations aforesaid, shall be recoverable in the manner provided for offences punishable by fine only, in the said

## DIRECTIONS FOR TAKING UP LAND FOR PUBLIC PURPOSES.

*Issued under the sanction of the Government of Bengal.*

1. ON receiving orders to take up land for public purposes the first duty of the Collector, (unless specially directed to take up the land under the provisions of Act VI. of 1857), is to ascertain and report whether the proprietor is willing to sell the land by private arrangement, and if so, at what price; whether that price is a fair one, and whether the title of the vendor is unexceptionable, or whether there are any conflicting claims or other considerations which render private purchase inexpedient. With a view to obviate delay, the Collector will, with this report, submit a draft Declaration under Section ii. of the Act. This he will do, even should he be of opinion that the land should be purchased by private bargain, as the higher Authorities may consider recourse to the Act to be expedient. In cases in which the Collector is eventually authorized to make the purchase by private bargain, without recourse to the Act, in reporting his arrangements he should give the information required by such of the columns of Statement A., appended to these Rules, as are applicable to the case.

2. The draft declaration should specify the boundaries and estimated area of the land, with any other particulars which may facilitate its identification. When submitting it, the Collector should give a rough estimate of what is, in his opinion, the fair value of the land, and of any buildings and rights for which it will be necessary to give compensation.

3. Should the Declaration be made by Government, and orders be issued to take up the land under the provisions of Act VI. of 1857, the Collector or other Officer will proceed, as directed in Sections iv., v., and vi. of that law, either to make an award or to refer the matter to arbitration. In the proceedings, and in the report, Collectors must be careful to keep up a proper distinction between different cases. Two plots of land in which *different* parties have an interest cannot be included in one case by reason of some of the parties being the same. Taking as an illustration a declaration under which 1,000 beegahs of land are to be taken up, all of which lie within one Zemindaree, if no claim be made to any interest in this land between that of the Zemindar and the mere tenants at will, the whole 1,000 beegahs will be treated as one case, and may be disposed of in one arbitration, as the Zemindar is the only person interested in the valuation. Again, if the only claim, to interest below that of the Zemindar be those of a Patnidar and Darpatnidar each of whom claims that the whole land is situated within his Patni and Darpatni respectively, the whole area may be disposed of as one case, for each claimant has an interest in *every part* of the land. The aggregate compensation may be fixed by one arbitration. But if, although the whole land lie in one Zamindari, one-half of it is claimed as forming part of one Patni tenure, and the rest as belonging to a different Patni tenure, or if, although in the same Patni, different portions of the lands are claimed as belonging to two different farms within the Patni, it will be necessary to institute two distinct cases; for here *all* the parties who claim an interest in one half of the lands are not identical with *all* the parties interested in the other half; and so, if, (although the whole land be in the same Zamindari, &c.) it lie within fifty different jotes (the Jotedars claiming any interest higher than that of tenants at will), it will be necessary to institute fifty different cases, a separate one for the land included in each jote, or claimed as included in each jote. In every case the Zamindar and Putneedar will be parties, and to them will be added in each case the individual jotedar concerned.

On the same principle it will generally be necessary to treat the valuation of trees, houses, &c., as cases distinct from those of the land on which they stand, for it will rarely occur that every party who has an interest in the land has the same interest in the trees and houses on it.

4. The duties of a Collector under this Act, with the exception of that of making the award, may be delegated to a Deputy Collector Covenanted or Uncovenanted; but, with reference to the heavy responsibility incurred, before any Officer other than the Collector is for the *first* time entrusted with this duty in

PROCEEDINGS BEFORE  
THE DECLARATION.PROCEEDINGS AFTER  
DECLARATION AND BE-  
FORE REFERENCE TO AR-  
BITRATION.Delegation of Collec-  
tor's duty to Assistant  
or Deputy Collector.

any District, his name must be reported to the Board, and it must be certified by the Commissioner and Collector that he is capable of performing the duty efficiently, and that he thoroughly understands Act VI. of 1857 and these Rules. A Deputy Collector having made all necessary preliminary enquiries as to the extent and value of the land, the parties entitled to the compensation, &c., shall, under Section v. of the Act, ascertain whether the parties concerned are willing to accept what he considers the proper compensation for the land; if so, he must submit the

Collector only can case to the Collector, who alone will exercise the power of make award.

making final awards under Section v. of the Act, except in those cases in which this Rule may be specially relaxed by the Board and authority given to some other Officer to make the final award. It will be understood that this authority to make the final award is not conveyed by a mere sanction to entrust the general conduct of the case to a Deputy Collector, as referred to above in this Rule. It will be borne in mind that awards made by the Collector cannot subsequently be amended by any authority; Officers will therefore see the responsibility which rests upon them, and the necessity for careful consideration before making their awards, so as to obviate all chance of error and oversight. Collectors should make an award in all practicable cases, and recourse to arbitration should be had only when those who attend his enquiry demand an amount of compensation which is unreasonable and extravagant. The Collector's award should be the rule; arbitration the exception.

#### POSSESSION OF LANDS WHEN TO BE TAKEN.

5. As soon as the Collector has either made an award under Section v. or referred the case to arbitration under Section vi., he is authorized by Section viii. to take possession of the land. He shall immediately act on this authority,

1st.—In all cases referred to arbitration;

2ndly.—In cases in which he may himself have made the award, if the amount awarded be such that under the powers conferred on him by Rule 20 below, he can disburse it without reference to higher authority; but where his award is for an amount which makes a reference to higher authority necessary before disbursement, the Collector shall defer taking possession of the land until orders be received, as the law, (Section xxvii.) requires that where the Collector makes the award, the payment shall be simultaneous with the taking of possession.

6. Whenever it may be necessary to appoint an arbitrator on the part of Government under Section x., Act VI. of 1857, the Deputy Collector or other Officer to whom the duty of taking the land may have been entrusted, subject to the Collector's supervision, may nominate a person for the approval of the Collector, but the final appointment shall in all cases be made by the Collector himself, who will be held strictly answerable that a proper selection is made.

#### PROCEEDINGS AFTER REFERENCE OF THE CASE TO ARBITRATION.

##### Appointment of Arbitrators.

Where more than one arbitrator is appointed, the arbitrator on the part of Government should, as a rule, be an Officer of Government, and should not be below the rank of Deputy Collector. If a Deputy Collector is not available for this duty, the fees under Section xxi. of the Act should be fixed at a rate sufficient to secure the services of men of undoubted integrity.

In Divisions in which any great quantity of land is likely to be taken up for public purposes, a Special Deputy Collector should be employed as arbitrator in all important cases throughout the Division. Such an Officer would acquire practical experience in valuing land, which would enable him to effect a ready settlement in most cases. This Officer will stand attached to some particular district, but should always be held available to proceed to any other district in the Division in which his services as arbitrator are required in a case involving considerable interests.

7. A Collector or other Officer taking lands for public purposes under Act VI. of 1857 will be justified in refusing to recognize an arbitrator appointed by the persons interested in the land, as an arbitrator duly appointed on their behalf under Section x., if the person so appointed stand in such a relation to the person appointing him as manifestly to disqualify him from performing the function of an arbitrator impartially by reason of an interest recognized by the law as sufficient to cause a bias in favor

##### Advocate-General's Opinion.



of the party appointing him, and if the persons interested in the land, on being warned by the Collector that he objects to their arbitrator on the ground of interest, refuse or neglect to appoint another within fifteen days, it will be competent to the Collector to appoint a single Arbitrator under Section xi.

8. A servant of the persons interested in the land must be taken to be a person disqualified by his position from acting as arbitrator, if the Collector think fit to object to the appointment on such grounds. But it is to be borne in mind that as the Collector has a right to object to a servant of the owners, so have the owners a right to object to any servant of the Government, or, in case of land taken for Railway purposes, to any servant of the Railway Company, as an Arbitrator, though a joint and not a sole one. And therefore it will not be equitable to object to the arbitrator appointed by the owners merely on the ground of his being a servant of the owners, if there be any intention to appoint any person in the Government employ, or, in the case of a Railway, in the employ of the Railway Company, as arbitrator on the other part. In some cases where the arbitrator appointed on the part of the owners is the agent who has been employed to represent them in negotiations for taking the land, and has identified himself beforehand with the view taken by the owners, as for instance the chief local agent of a Joint Stock Company, who has insisted beforehand on a price which the Collector considers exorbitant, it might be right and expedient for the Collector to refuse to recognize such an appointment, and to call on the owners to appoint some one else, or in default, to treat them as neglecting or refusing to appoint. In other cases, on the other hand, where the arbitrator appointed by the owners, though in their employment, has not identified himself beforehand with their view, and is known to be a fair and reasonable man, and where, from the locality, there is a difficulty in getting arbitrators unconnected with either party, to act, it will be right and advisable to sanction the appointment of such a person, the Collector reserving to himself the right, in such case, to appoint a person to act as joint arbitrator who may be in the service of Government, though not connected with the particular case or having any known bias or inclination in the matter, if no person not being a Government servant can be found qualified to act as arbitrator on the part of the Government.

9. Where there is no legal disqualification on the part of the person appointed, such as the relation of master and servant, the Collector cannot object to the appointment of an arbitrator merely upon the suspicion of the unfitness of the person appointed, or of his close relation of friendship or in business with the owners of the land.

10. On the whole, the objection by the Collector to the appointment of the arbitrator appointed by the owners on the ground of interest should only be taken in a very clear and strong case, where it is obvious that the person so appointed will be likely to act rather as an advocate or partizan than as an arbitrator. In other cases, even where he would be legally justified in taking the objection, it will be more prudent to waive it, and to trust to the appointment of a really disinterested arbitrator by the Collector, and to the power of appointing a third arbitrator, if the two cannot agree in their choice of an impartial person, to correct the inconvenience of the selection by the owners of a person in their own interests.

11. If the arbitrators cannot agree in the appointment of a third arbitrator, the Collector, (though not expressly prohibited by the Act, as in the case of a sole arbitrator,) should in no case select for the third arbitrator a person in the service of the Government. When the case is not entrusted to a single arbitrator, all three arbitrators must take part in the proceedings. Each must weigh every statement made and every document adduced on either side which is calculated to throw light on the real value of the property. The third arbitrator must not be considered an umpire or referee to be called in only in case of difference of opinion between the other two arbitrators. Collectors may reject an award as incomplete, if all three arbitrators have not taken part in the enquiry.

Where there is only a single arbitrator, Collectors should invariably depute some intelligent subordinate officer to state the case of Government before him.

12. To the award, whether made by the Collector under Section v., or by arbitrators under Section xx., shall be annexed a Statement in the appended Form A., shewing the manner in which the amount awarded has been arrived at. As a general rule, 10 per cent. on the gross rental may be assumed to be a

#### AWARD.

Statement to be annexed to it.

fair deduction for costs and risks of collection, but the Collector or arbitrators will of course take into consideration any circumstances which may tend to make a higher or a lower scale of deduction just.

Deduction for cost of Collection.

13. There is reason to believe that many arbitrators award twenty years' purchase of the nett profit as a matter of course, considering themselves bound to do so; but Collectors or Deputy Collectors when explaining to arbitrators their duties under the Act, (which they should always do before the arbitrators commence their enquiry) should take care that such erroneous impression is removed. It should be pointed out to them that to act upon such an assumption is an abuse of the power entrusted to them by the Act. Their duty is to fix the fair market value of the land taken up, that is, the price which it might be expected to realize if disposed of by private sale. This can generally be ascertained by reference to the price at which similar lands have lately been sold in the neighbourhood. It is believed that twenty times the nett profit is far above the market value of land in many districts.

Arbitrator's duty to fix fair market value.

14. Where the award relates to lands forming part of an estate paying revenue to Government, it will be observed (Section xxvi.) that the duty of the arbitrators or of the Collector acting under Section v. is merely to "specify the nett rent of the land *including* the Government Revenue and the computed value of such rent". The award therefore will specify the same particulars whether the land be part of a revenue-paying estate, or of a rent-free tenure. It will also be observed that the duty of the arbitrators is to fix the aggregate compensation for the land, &c., referred to them. They cannot determine the proportions in which that compensation shall be divided among persons having different interests in the land, &c., unless they be specially authorized by the Collector to enter on that question, which authority cannot be given without the written consent of the parties under Sections xiv. and xv.

15. The award of the Collector which Section v. declares final, and the award of the arbitrators which under Section xxxi., can be reversed only by the Civil Court, is limited to the above particulars. The award having been so made, Section xxvi. leaves it to the Revenue Authorities to determine whether any and what portion of the compensation awarded shall be allowed in the shape of an abatement of revenue on the estate of which the lands taken form a part. Therefore any proceeding of the Collector subsequent to the making of the award containing the particulars specified in the foregoing Section, will be taken in his ordinary capacity of a Revenue Officer, and, as such, subject to the control of the superior Revenue Authorities.

All items of compensation to be included in Statement A.

16. The compensation to be awarded for damage done to neighbouring lands, and all items of compensation to be granted on every account, will be included in Statement A.

17. All cases under this Act are to be reported to the Board even though they may have been finally disposed of in the local Offices. Where the land does not form part of an estate which pays revenue to Government, the Collector's Report will be drawn up in the form B. annexed. Where the land *does* form part of a revenue-paying estate, the form D. will be adopted. Memorandum C. will be filled up when refunds of collections are necessary. In reporting for the Board's orders, through the Commissioner, cases of lands paying revenue to Government, the Collector will, by the figures which he enters in Columns 9 and 10 of form D. give his opinion as to the proportion

ALL CASES TO BE REPORTED.

Commissioner and Collector to give their opinion on certain points. of the amount awarded, which should be given as a money payment, and the proportion for which an equivalent should be allowed in the shape of an abatement of the Government revenue, to which the Commissioner will signify his concurrence or dissent. The history of each case should be given in the proper columns, and should always embrace, among others, such of the following points as are applicable to the case:—

1st.—Date of issue of declaration under Section ii.

2nd.—Date of issue of notices under Section iv., with the names of the parties to whom issued, and the manner in which the notices were served.

3rd.—The date fixed for the enquiry under Section v., the names of the parties who attended on that date in person or by agent, and the result of the proceedings on that day, and on future days to which the enquiry was postponed.



4th.—Any proceedings of the Collector under Section vii.

5th.—Date of possession being taken under Section viii.

6th.—The dates and details of all steps taken for the appointment of arbitrators under Sections x., xi., xii., and xiii.

7th.—Whether, with the written consent of the parties, the arbitrators were authorized to determine the shares in which the amount awarded should be distributed, and their action in consequence.

18. Where the proportion which the area taken up bears to the whole area of the

**GENERAL RULES FOR  
FIXING THE SHAPE IN  
WHICH COMPENSATION IS  
TO BE ALLOWED.**

estate is readily ascertainable, the portion of the compensation which is to be allowed in the shape of an abatement of Government revenue will generally be fixed in the same proportions to the whole Government Revenue of the estate; but where the estate is large, and its actual area is not ascertained, the general rule will be to give one-half of the compensation awarded, in the shape of a money payment, and to allow an abatement of revenue equivalent to the remaining half. Should there, however, be reason to believe that the assets of the portion of the estate left in the hands of the proprietor may prove inadequate to secure the Government Revenue for which it would thus remain liable, the Board will allow a greater portion of the compensation, (extending to the whole if necessary), to be given in the shape of an abatement of revenue.

19. The amount of annual abatement of the Government demand fixed upon, will be one-twentieth part of the cash payment in substitution for which it is allowed, according to the general rule for redemption of land-revenue by cash payments.

20. To obviate as far as practicable, the delay which the necessity of a reference

**AUTHORITY OF COL-  
LECTORS AND COMMIS-  
SIONERS TO MAKE DIS-  
BURSEMENTS.**

to the Board regarding payments entails, Collectors are hereby authorized, at once and without reference to higher authority, to disburse the amount of compensation which they consider should be given in the shape of a money payment, for lands taken under this Act; provided that the amount do not exceed Rupees 1,000 and, if the land form part of an estate assessed to the Government Revenue, that the land taken up do not exceed one-tenth of the whole area of the estate; similarly, Commissioners are authorized to sanction the immediate payment of the money part of the compensation when the sum so to be paid does not exceed Rupees 5,000, and, if the land form part of an estate assessed to the Government Revenue, when the area of the land taken does not exceed one-fifth of the whole area of the estate. In all other cases, disbursements must be deferred until the orders of the Board are received on the awards and statements, which are to be submitted by the Commissioner with his remarks. Except in those cases in which the actual area of the estate, and therefore the average pressure of the Government Revenue on each beegah of it, is known, the amount paid in cash, without reference to the Board, shall in no case exceed one-half of the whole compensation awarded for revenue-paying lands, the remaining half being given in the shape of an abatement of the revenue demand, i. e. the annual abatement granted must be at least one-twentieth of the sum paid in cash for the land.

21. In exercising the powers conferred by the preceding Rule, due advertence must be had to Section xxix. of the Act, the neglect of which entails personal responsibility on the disbursing officer.

22. The Board are empowered to sanction disbursements for cash compensation

**AUTHORITY OF BOARD.**

when the sum so to be paid does not exceed Rupees 10,000 and the area of the land taken, if it form part of a revenue-paying estate, does not exceed one-half of the whole estate.

23. The Authority whose sanction is, under these Rules, sufficient for the disbursement of the portion of the compensation to be paid in cash in each case, is also competent to sanction the future abatement from the Government revenue which represents the portion of compensation to be allowed in that shape. No further sanction to such abatements will be required by the offices of audit and account.

24. The authority whose sanction is sufficient, under these Rules, for the disbursement of cash compensation in any case, is also empowered to disburse interest, calculated at 6 per-cent. per annum, on such compensation, from the date on which possession of the land was taken up, to the date on which the Collector or Deputy

Collector may hold a proceeding transferring the amount of compensation to deposit to the credit of the parties entitled to it, or may invest the amount in Government Securities under Section xxix. of the Act. Immediate notification should be made of such transfers that parties may not afterwards plead that they were not aware that the Collector was prepared to pay them the money.

25. In cases in which it is decided to allow a portion of the compensation in the shape of an abatement of the Government revenue, but in which, through delay in the proceedings, the full revenue may

have been levied after possession of the land was taken for Government, it will be necessary to make refunds for each year to the extent of the amount of abatement which has been fixed upon. Such refunds will be recommended to the Board in the form C., but their disbursement will be withheld until the local proceedings have received the approval of the Board, otherwise a difficulty may arise in recovering the amount refunded, in cases in which the Board find it necessary to interfere with the amount of abatement allowed by Local Officers. But, the refund having been authorized by the Board, disbursement of the amount may be made by the Collector with interest at 6 per cent. from the date on which the excess payment of each instalment was paid into the treasury; up to the date of the amount of refund being transferred to the credit of the parties entitled to it, which should be notified as in Rule 24 above.

26. Alienations of land from estates under this Act, and the consequent reduction made in the Government Revenue of the estates, should be noted in the Collector's General Register. (Revenue Form No. 67).

ALIENATIONS OF LAND  
AND ABATEMENT TO BE  
RECORDED IN GENERAL  
REGISTER.

27. All costs incurred for measuring lands, &c., shall be treated as a portion of the cost of the land, and the sanction of the authority which is competent to sanction the disbursement of the cash compensation in the case, will be sufficient for the offices of audit and account.

COSTS OF MEASURE-  
MENT.

28. The fees allowed to arbitrators appointed under Section xxi. shall be at a rate not exceeding Rupees 32 to each arbitrator for every meeting connected with the case under consideration. Within this limit, the amount may be fixed and disbursed on the authority of the officer who is, by these Rules, authorized to disburse the money compensation, and it should be shewn in Statement B. or D. When, for special reasons, a higher rate of remuneration is thought necessary, reference must be made to the Board.

ARBITRATORS' FEES.  
AMOUNT.

29. Officers in the service of Government, employed as arbitrators on the part of Government in cases of taking land, &c., for public purposes, are, as an exceptional case, allowed to receive fees for their labor. It must however always be specified in the order for his appointment whether the Government arbitrator is to receive a fee or not. Before payment, the arbitrator must certify that the work has been done out of office hours. This Rule does not apply to Deputy Collectors who are employed as arbitrators under Rule 6 in the ordinary course of their duty.

GOVERNMENT SER-  
VANTS ALLOWED TO  
RECEIVE ARBITRATION  
FEES.

30. The Board of Revenue will only report to Government cases in which a cash payment of above Rupees 10,000 is involved, but will keep the Government informed of all disbursements on account of lands taken for public purposes by submitting a Monthly Statement in the Form E, which will include all cases of which the final proceedings have been reported to them and approved of by them during the month and no others.

31. Whatever amount is disbursed by the Collector for the Public Works Department must be held as unadjusted until passed by the Controller of Public Works Accounts, on a bill which will require the countersignature of the Commissioner of the Division. If the amount disbursed be for any other Department than Public Works, then it will be held unadjusted until passed by the Civil Pay-Master in the Monthly Contingent Bill. The payees receipt will be required as a voucher, and, in those cases in which the

ACCOUNTS AND AD-  
JUSTMENTS OF SUMS  
PAID.

orders of superior authority have been necessary, a copy of the order. In those again which are within the competence of the Collector to disburse at once, his signature to the Bill will be sufficient, whether the award have been made by himself or by arbitrators.

32. Payments made for lands taken for a railway should be debited to "E. Works of internal improvement and public convenience" subordinate to "J. Adjusted charges of other Governments, India;" and for the Electric Telegraph to "K. VI. Remittances to other Governments, Electric Telegraph, Imperial." Payments for all other lands should be debited in the body of the Treasury Account under "E. Works of internal improvement and public convenience," "F. I. Public Works," or in a Sub-Division of "B. I. Revenue Department," according as they are required for communications, Civil Services, or Revenue Departments. In all cases, payments should be made as soon as the Rules admit, that Government may not become chargeable with interest.

33. The amount disbursed on account of fees and costs of measurement is to be exhibited in the Accounts in the same manner as the amount of compensation is directed to be exhibited in Rule 31 above.

34. The manner in which Collectors have discharged their duty of making awards under Rule 4, and, generally, the manner in which cases under Act VI. of 1857 have been conducted in each district will form the subject of special comment in the Annual Reports of Commissioners.



# FORM A.

PRESCRIBED BY PARAGRAPH 12 OF THE RULES FOR ACQUISITION OF LANDS FOR PUBLIC PURPOSES.

*Details of award for Compensation to be given for lands taken up under Act VI. of 1857 for a public purpose, i. e. for the site of a Thannah, as notified in a Declaration under Section ii., dated*

1. Number of the case.	2. Name of District.	3. Name of Estate, Pergunnah and Village.	4. Names of all Claimants of compensation stating whether they are Zamindars, Pundeadars, or Ryots, &c.	5. Quantity of land taken.	6. Gross Mofussil rental of the land taken.	7. Deduct per cent. as cost of* collections.	8. Nett rental per annum.	9. Compensation to be allowed.	10. COSTS EXCLUDING ARBITRATORS' FEES.			13. Name of arbitrators.	14. Remarks explaining the Arbitrators' proceedings, how the costs have been incurred, &c., &c.
									10. Total costs of arbitration (exclusive of arbitrators' fees) as declared by arbitrators, under Section xxii., Act VI., 1857.	11. Deduct proportion of costs payable by the proprietors, as declared by the arbitrators under Section xxii.	12. Balance of costs payable by Government as declared by arbitrators under Section xxii.		
	Tirhoot.	Kullianpore Bomeya, Pergunnah Sumreysa.	Sheik Nubbeebux Zemindar. Dumeer Meea Putneedar.	R. C. C. 10 0 0	R. A. P. 30 0 0	R. A. P. 6 0 0	R. A. P. 24 0 0	Rs. A. P. For land calculated at years' purchase of the nett rental ... 240 0 0 Value of houses ... 10 0 0 Value of trees ... 20 0 0 Cost of digging a tank to be re-im-bursed ... 0 0 0 Other miscellaneous items (to be specified) ... 0 0 0 Total compensation awarded ... 270 0 0 Add portion of costs payable by Government as per Column 11 ... 2 8 0 Total awarded as payable by Government ... 272 8 0	Rs. A. P. 5 0 0	Rs. A. P. 2 8 0	Rs. A. P. 2 8 0	1. Arbitrator for Claimants, Sheik Ahmu-deullah. 2. Ditto for Government, Moulyee Darus-toolish. 3. Third ditto Baboo Joyprokash Singh.	

(Signed) A. B., Collector or Deputy acting under Section v.,  
or C. D.,  
E. F., Arbitrators.  
G. H.,

N. B.—As explained in paragraph 3 of the Rules it will not generally occur that the compensation for trees, houses, &c., will be included in the same case, as the land on which they stand. When the arbitration has reference to houses and trees, &c., only, Columns 5, 6, 7, will be blank.

## FORM B.

PRESCRIBED IN PARAGRAPH 17.

Statement of proceedings under Act VI. of 1857, for taking up the land referred to in Declaration, dated \_\_\_\_\_ the land NOT forming  
part of a revenue paying estate.

PURPOSE FOR WHICH THE LAND IS REQUIRED.

SITE FOR A THANNAH.

1.	2.	3.	4.	5.	6.	ARBITRATORS' FEES.			10.	11.	12.	13.	14.
Number of the Case.	District.	Estate, Pergunnah and Village.	Name of Claimants of land, of trees, or houses, &c., specifying the interest claimed.	Quantity of land taken.		7.	8.	9.	Costs of measurement payable by Government.	Grand Total payable by Government, i. e. total of Columns 6, 9 and 10.	Whether the amount in Column 6 has been paid to the parties entitled to it with date, or whether it will be invested in Government Securities under Section xxix. Act VI. of 1857, or whether the disbursement is deferred pending orders of higher Authority.	Date from which interest becomes due, i. e. date on which possession of the land was taken, the amount of interest on the compensation awarded up to date of payment or investment, or if not yet paid or invested up to date of report.	History of the case detailing the steps taken by the Collector, &c.
				B. C. C.									
				10 0 0	For land calculated at _____ year's purchase of the nett rental	Rs. As. P.							
					Value of houses	240 0 0	32 0 0	16 0 0	16 0 0	20 0 0	308 8 0		
					Value of trees	10 0 0							
					Cost of digging a tank to be re-imbursed	20 0 0							
					Other miscellaneous items.(to be specified)	0 0 0							
					Total compensation awarded	0 0 0							
					Add portion of costs payable by Government as per Column 11 of Statement A.	2 8 0							
					Total payable by Government under the award*	272 8 0							

Collector.

Countersigned.

Commissioner.

N. B.—As explained in Rule 3, compensation for houses and trees will not generally be included in the same case as that for the land in which they stand; this specimen entry assumes that the trees, houses and tank belong absolutely to the proprietor of the land on which they stand. Any number of cases referring to land or trees, &c., taken up under one Declaration may be entered one after another in the same Statement; an Abstract being shown at the foot in this form\*

Total land taken up	... Beegahs ...	Equivalent to Acres 0 0
Total of the items in Column 10 which refer to land	... Rupees ...	
Total of items in column 10 which refer to property other than land	... ..	
Total of costs and contingent expenses	... ..	

Total

# Memorandum C.

## REFUNDS OF COLLECTIONS AND INTEREST ON AMOUNTS TO BE REFUNDED.

*This Statement applies only to cases in which Instalments of the full revenue of the estate have been paid after the date on which the land was taken up for Government; from which date the proprietor was properly entitled to the abatement shown in column 9, Form D.*

1.	2.	AMOUNT OF REFUND TO BE MADE ON ACCOUNT OF REVENUE PAID IN BEFORE THE ABATEMENT OF JUMMA TAKES EFFECT, i. e., BEFORE THE DATE GIVEN IN COLUMN 2 OF THIS STATEMENT.				INTEREST DUE ON THE EXCESS COLLECTIONS WHICH HAVE TO BE REFUNDED AS PER COLUMN 6 OF THIS MEMORANDUM, AT 6 PER CENT., PER ANNUM.				11.	12.
Instalment from which the abatement shown in column 9, Statement D., should have taken effect, i. e., the one following the date on which possession of the land was taken.	Date from which the demand will actually be abated as per column 14, Statement C. i. e., from which the amount to be abated will not be levied from the Proprietor.	3. Year or instalment in which the collections from the estate were made, out of which a portion has now to be refunded.	4. Amount paid.	5. Amount of revenue which was due for the period, after deducting the abatement.	6. Excess payment to be refunded.	7. Date of collection of each excess item.	8. Amount of payment.	9. Period for which interest is due.	10. Amount of interest due.	TOTAL	REMARKS.
1st May 1860	1st Nov. 1861.	1860-61 ...	R. A. P. 500 0 0	R. A. P. 495 0 0	R. A. P. 5 0 0	1st Nov. 1860	R. A. P. 2 8 0	From 1st Nov. 1860 to 28th Feb. 1862, being one year and four months	R. A. P. 0 3 0	Amount of refunds ...	7 8 0
		Two quarters of } 1861-62 ... }	250 0 0	247 8 0	2 8 0	1st May 1861 ...	2 8 0 5 0 0	From 1st May 1861 to 28th Feb. 1862, being 10 months	0 1 10	Amount of interest on ditto up to the 28th of February 1862* ...	0 5 6
					7 8 0	1st Nov. 1861	2 8 0	1st Nov. 1861 to 28th Feb. 1862, being four months	0 0 8 0 5 6	Total Rupees ...	7 13 6
											* On the refund being sanctioned by the Board, it will be paid with interest at 6 per cent. up to date of disbursement.

(Signed)

A. B.,  
Collector.



## FORM

PRESCRIBED IN

*Statement of Proceedings under Act VI. of 1857. for taking up the land referred to in Decla-*  
**PURPOSE FOR WHICH THE LAND**

A.	1. 2. 3.			4.	CALCULATIONS TO FIX AMOUNT OF ABATEMENT.						ARBITRATOR'S FEES.			
	Name of District, Estate, Pergunnah, and Village. Name of parties claiming compensation for lands, houses, &c., whether as Zemindars, Ryots, &c.				5.	6.	7.	8.	9.	10.	11.	12.	13.	
No. of Cases.				Total of compensation & costs awarded as per column 9 of Statement A., and deduction therefrom to be made on account of abatement of revenue as per column 10 of this Statement, if any.	Area of whole Estate.	Government revenue of whole Estate.	Average pressure of Government revenue per beegah on whole Estate.	Quantity of land taken.	Abatement of Government revenue proposed by Collector.	Amount of cash payment, to which the annual abatement proposed in column 9 is equivalent, i. e., twenty times the sum abated.	Arbitrator's fees fixed by Collector under Section xxi., Act VI. of 1857.	Deduct the share of the arbitrator's fees payable by the proprietors under Section xxii., being in the same proportion as the rest of the costs.	Remainder of arbitrator's fees payable by Government.	
				Rs. A. P.	Bgs.	Rs.	R. A. P.	Bgs.	R. A. P.	R. A. P.	R. A. P.	R. A. P.	R. A. P.	
				For land calculated at years' purchase of the nett rental ...	240 0 0	1,000	500	0 8 0	10	5 0 0	100 0 0	32 0 0	16 0 0	16 0 0
				Deduct the equivalent of the proposed abatement of Government revenue in column 10 of this Statement	100 0 0									
				Remainder payable in cash for the land only ...	140 0 0									
				Add value of houses ...	10 0 0									
				Add value of trees	20 0 0									
				Cost of digging a tank to be reimbursed ...	0 0 0									
				Other miscellaneous items, (to be specified) ...	0 0 0									
				Total compensation payable in cash ...	170 0 0									
				Add costs of arbitration payable by Government as per column 12, Statement A.	2 8 0									
				Total of items fixed by the award ...	172 8 0									

NOTE.—This specimen entry assumes that the trees, houses, &c., absolutely belong to the proprietor of the land and houses will be shown as a separate case from the land. In the entry of case regarding houses and trees only, entered one after another in the same Statement, at the foot of which an abstract in this form will be entered:—

*Abstract of Compen*

Actual quantity of land taken up in all cases in this Statement ...  
 Total of items in column 17 referring to land ...  
 Total of items in column 17 referring to property other than land ...  
 Total of costs and contingent expense in column 17 .....

Annual abatement to be allowed as per column 9, viz:—

Mehal .....  
 Ditto .....  
 Ditto .....

## D.

## PARAGRAPH 17.

ration, dated *the land forming part of an Estate paying revenue to Government.*  
IS TAKEN. SITE OF A THANNAH.

14.	15.	16.	17.	18.	19.	
1stly.—Date from which abatement should have taken effect, i. e., date of possession being taken. 2ndly.—Date from which it will take effect, i. e., the year from which the amount will first cease to be demanded.	Interest at 6 per cent. per annum due on Rupees 170, being the amount of compensation payable in cash as per column 4, from the date on which possession was taken of the land up to the date of payment or of investment in public securities, or if not yet invested, up to date of this Statement.	Cost of measuring the land, &c.	Grand Total payable by Government in cash in addition to the annual abatement of Rupees 5 as per column 9, if any.	Whether the amount in Column 17 has been disbursed or invested in Government Securities under Section xxix. under sanction of Commissioner or Collector, and on what date; or whether the disbursement is deferred pending receipt of Board's Orders.	History of the case, detailing the steps taken by the Collectors of other Officers.	
	Number of years and months.	Amount of Interest.				
		R. A. P.	Rs.			
1stly. Date of possession being taken for Government, 1st May 1860. 2ndly. Date from which the revenue will cease to be demanded, 1st November 1861.	One year and ten months, from 1st May 1860 to 28th February 1862 inclusive.*	18 11 0	20	Total of Compensation as per column 4 170 0 0 Share of costs of arbitration as per column 4 2 8 0 Share of arbitrator's fees as per column 13 16 0 0 Interest on cash compensation as per column 15 18 11 0 Costs of measurement as per column 16 20 0 0 Refunds and interest on refund as detailed in Memorandum C. ... 7 13 6 Grand Total ... 235 0 6	Rupees 16 being the Government share of Arbitrator's fees, and Rupees 2-8 being the Government share of costs of Arbitration, and Rupees 20 being cost of measurement, total Rupees 38-8 have been paid by the Collector; and Rupees 170 being Cash Compensation with Rupees 18-11 interest has been paid to the Zemindar; the abatement of Rupees 5 from the Government Revenue as shown in column 9, ordered; but sanction to the refunds and interest on refunds amounting to Rupees 7-13-6, as shown in column 17, is awaited.	To be filled in as described in Rule 17 of the Series.

land on which they stand. As explained in Rule III. this will not usually be the case, and generally the trees columns 4, 5, to 16 and 14, will necessarily be blank. Any number of cases covered by one declaration may be

## sation excluding

..... Beegahs ... 0 0 0 Equivalent to ... Acres 0 0 0  
 ..... Rupees ... 0 0 0  
 ..... " ... 0 0 0  
 ..... " ... 0 0 0

Total Rupees ... 0 0 0

..... Rupees ... 0 0 0  
 ..... " ... 0 0 0  
 ..... " ... 0 0 0

Total Rupees ... 0 0 0

# E.

Monthly Return of Compensation allowed for lands taken up for public purposes in all cases which have been reported and approved by the Board of Revenue, Lower Provinces, during the Month of 18 prescribed by paragraph 30.

	1.	Number and date of Government Order to take up the land.
	2.	Date of Declaration under Section ii., Act VI. of 1857.
	3.	District and Estate.
	4.	Purpose for which the land was taken.
	5.	Total area of land covered by the Government Orders.
	6.	Area for which compensation has now been given.
	7.	Area of land covered by the Government Order in column 1, for which compensation has not yet been settled.
	8.	Total value of compensation awarded for the land shewn in column 6.
Annual Abatement of Rupees equivalent to a ready money payment of	9.	Deduct allowed in the shape of an abatement of Government Revenue, i. e., twenty times the amount of annual abatement allowed.
	10.	Remainder paid in cash.
	11.	Amount of excess collections refunded.
	12.	Amount of interest paid on the amount shewn in columns 10 and 11.
	13.	Amount of arbitrators' fees, cost of arbitration, measurement, and all incidental expenses.
	14.	Total of cash disbursement, being total of columns 10, 11, 12, & 13.
	15.	REMARKS.



## ACT XXIII. OF 1863.

*(Received the assent of the Governor-General on the 10th March 1863.)**An Act to provide for the adjudication of claims to waste lands.*

**WHEREAS** it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

Preamble.

**I.** When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue in such District by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Provision for enquiry into claims to land, or objections to sale of same.

**II.** The Collector or other Officer as aforesaid, shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Procedure in such cases.

**III.** Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land; and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Pending enquiry, sale, &amp;c., to be postponed.

**IV.** If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land: but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the Local Government to try the claim or objection, as provided in Section vi. of this Act, the claimant or objector shall fail to establish the same.

Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.

**V.** If the Collector or other Officer as aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid, that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority; and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection; and such Board, or other Authority, on the receipt of

Procedure after passing of order in the case.

Report to Revenue Board.

such Report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse, the order of the Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order

**Decision of Board.**

of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as hereinafter provided; and such Court shall forthwith give notice to the claimant or objector; and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court, to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

**VI. The Local Government may, within twelve months after the date on**

**Local Government may, within twelve months, order suit to be brought to try claim admitted by Collector.**

as hereinafter provided.

which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted

**VII. For the investigation and trial of claims under this Act, the Local Govern-**

**Special Court for trying claims.**

ment shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three; of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District by whatever name his office may be designated, shall be one. Any one or more of the Members of which such Court shall consist, shall have power to make all such orders in the case, as may be necessary prior to the hearing of the suit. Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original Jurisdiction in the District, such Officer shall not be a member of such Court.

**VIII. Whenever any Court is constituted under this Act, notice thereof shall**

**Notice of constitution of Special Courts. Claims not cognizable in other Courts.**

be given, by a written proclamation, copies of which shall be affixed in the several Courts, and in the Offices of the several Collectors and Magistrates, of the District: and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection, belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

**IX. The Courts constituted under this Act shall be held at such place, or places,**

**Special Courts where to be held.**

within the limits of their respective jurisdictions, as shall be considered most convenient.

**X. In every suit instituted under Section v. of this Act, the claimant of the**

**Plaintiff and defendant in suits under Section v.**

**Government. Either**

**Proviso.**

**the Local Government the case on its behalf.**

**Plaintiff and defendant in suits under Section vi.**

**appear as defendant.**

waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector or other Officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent. Provided that, if such other Officer as aforesaid be the presiding Officer of the principal Civil Court of original jurisdiction in the District, shall appoint some other Officer to appear as defendant in any suit ordered to be instituted by the Local Government under Section vi. of this Act, the Government, by any officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall

**XI. In suits instituted under this Act, except as hereinafter provided, the**

**Proceedings regulated by Civil Procedure Code.**

proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

**XII. The Court shall fix a day for the appearance of the parties, and for the**

**Procedure before hearing of suit.**

hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together

with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time, before the day fixed for the hearing of the suit; and the Court shall issue a Subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

**XIII.** On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

**XIV.** No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

**XV.** If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts; the Court may either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of appeal and revision in the territory in which the land is situate. Provided, that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

**XVI.** The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred; but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

**XVII.** The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

**XVIII.** No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise

dealt with. If, within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the District in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under Section I. of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with the like provision as aforesaid, if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the defendant in the suit; and the foregoing provisions of this Act shall be applicable to the trial and determi-



nation of the suit. The report of the Officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

**XIX.** In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute but shall order him to receive from the Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

If claim established, possession not to be given, but compensation.

**XX.** If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established; the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI. of 1857 (*for the acquisition of lands for public purposes*); and thereupon the local Government shall proceed under the said Act, to obtain an award of the value of such interest.

When land has not been absolutely sold, or has been otherwise dealt with.

**XXI.** An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Award under the two last Sections to be in full satisfaction.

**XXII.** Nothing in this Act shall be held to prevent the Local Government from awarding, to any claimant of waste land sold on account of Government, on proof to the satisfaction of the Local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section xix. of this Act, if the land have been sold not subject to any condition or reservation, as to such local Government may seem proper.

Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time.

**XXIII.** If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the Local Government, although not preferred to the Collector or other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the Local Government may award to such claimant or objector, such amount as to such Local Government may appear to be the value of the interest of such claimant or objector in such land.

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

**XXIV.** 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.

"Interpretation."

"Number."

"Gender."

# RULES FOR THE SALE OF UNASSESSED WASTE LANDS IN THE LOWER PROVINCES OF BENGAL, AND FOR THE REDEMPTION OF THE REVENUE OF SUCH LANDS ALREADY GRANTED FOR A TERM OF YEARS.

PUBLISHED BY AUTHORITY OF THE GOVERNMENT OF BENGAL.

1. All unassessed waste lands in which no right of proprietorship or exclusive occupancy is known to exist, or to have existed and to be capable of revival, are available for purchase under these Rules, unless specially reserved under Rule 21.

2. No greater quantity of land than three thousand acres shall be sold in one lot except with the express sanction of the Government. If, for special reasons, in particular localities, a lower maximum area than three thousand acres should be determined upon, it will be duly notified hereafter. There is no prohibition against the same person applying for two or more lots of land, provided that each application comprises no more than 3,000 acres, or such other maximum as may be prescribed.

3. Every lot shall be compact, and shall include no more than one tract of land in a ring fence; and when the land touches a public road or a navigable river, the length of the road or river frontage shall not exceed one half the depth of the lot, provided that if, for any special reason, the Board of Revenue shall see fit to relax this restriction it shall be competent to it to do so. If it should appear from the Survey or otherwise, that the application does not comply with these conditions, the Collector may call for an amended application; and, in the event of a revised application not being given in within 15 days, the application shall be held to be cancelled, and the deposit shall be returned to the applicant, less the amount of expense actually incurred for advertisement, survey and the like. [No lot will be sold unless it has been previously surveyed and demarcated, or until it shall have been surveyed and demarcated in consequence of an application for purchase. The survey need only be in sufficient detail to ensure the ready identification of the boundaries of the lot, and to ascertain its gross area. If, on completion of the survey, it shall appear that the area of the lot applied for exceeds the prescribed maximum, the excess shall be excluded.]

*Note.—The portion of this rule within brackets has been temporarily suspended in the Districts of Assam, Cachar, Sylhet, and Darjeeling, the whole area remaining hypothecated for any deficiency in the price paid which may appear on the completion of survey.*

4. Applications for the purchase of waste land shall be made to the Collector of the district, and every application shall contain the following particulars:—

1st. The estimated area of the land applied for,

2nd. The situation of the land and its boundaries as accurately as can be ascertained.

Applications shall immediately be entered in a Register. (Revenue Form No. 35.)

5. If the Collector be satisfied that the land applied for is available for purchase, and within the conditions prescribed in Rules 2 and 3, and if it have been previously surveyed and demarcated, he shall advertise the lot for sale on a given day, at an upset price of not less than two rupees eight annas an acre, on the whole area. The advertisement shall be published in the Collector's Office, in the Court of the principal Judicial Officer of the District, and at the Moonsiff's Court, (if there be one), and Police Station within the limits of which the lands are situate. An advertisement shall also be published in the *Government Gazette* in the form A. A sum of 16 Rs. to cover all estimated expenses connected with advertising, shall be paid by the applicant in advance at the time of application.\*

\* All sums received for advertisement expenses under this Rule are to be credited in account in a separate entry as "Waste Land Advertisement Expenses" under, "XV. Miscellaneous," and all expenditure for local advertisements, &c., is to be included in the Office Contingent Bill and, when passed, debited in a separate entry, with the same title, under "F, IX". Local Officers will not remit the cost of advertising in the *Government Gazette* to the Printer, as arrangements have been made for paying this charge in Calcutta.

6. If the Collector be satisfied as above, and if the land have not been surveyed, he shall cause it to be surveyed, and its boundaries demarcated, the estimated cost of such survey and demarcation being first deposited by the applicant. The sum to be deposited for survey, &c., will be calculated at the rate of 6 annas an acre for grants estimated at less than 1,000 acres in area, and at the rate of 4 annas for larger grants. The sums so calculated will be taken in full payment of the expense of actually surveying the lands; but the cost of clearing the boundaries, which will be estimated by the Collector, is to be deposited in addition to the survey expenses calculated as above. On the completion of the survey the advertisement of sale shall be published as above.

*Note.—This Rule is temporarily suspended in the district of Assam, Cachar, Sylhet, and Darjeeling. (See note to Rule 3.)*

7. The day of sale under Section i., Act XXIII. of 1863, must not be less than three months after the issue of the notice. Collectors will, on no account, except under special instructions from the Board, fix a later date than the first monthly sale-day, after the expiration of the third month from the issue of the notice. Sales shall be held on the 2nd of each month, or on the first day after that date on which the Collector's Office may be open, unless the Collector shall, with the sanction of the Commissioner, for special reasons, fix a later date in the month; when, for any reason, a sale is deferred from the date originally fixed in the advertisements, notice of the date to which it is deferred will be given by an advertisement at the Collector's Office. If the day to which the sale is postponed be more than 15 days after the date originally fixed, the date to which it is deferred shall be published in the manner prescribed by Rule 5, for the original Notification of the day of sale. In this case, all expenses of advertisement shall be borne by the Government. The cost of survey and advertisement will be payable by the highest bidder in addition to the upset price. Immediately on the conclusion of the sale the highest bidder, (if he be not the original applicant), shall deposit a sum equal to four annas an acre on the whole area of the lot. In default of immediate payment of this deposit the Collector may at once resell the lot. If he think it necessary, he may refuse to recognize any bid which is not supported by the deposit of the amount required by this Rule. Immediately a sale is made, it shall be entered in a Register (Revenue Form No. 39.)

8. If, before the day of sale, no claim to proprietary or occupative right in the land be preferred, the lot shall be sold by auction to the highest bidder above the upset price, or to the applicant at the upset price, if there be no higher bid. No claim except a claim to proprietary right in the land, is one which, if well founded, will of itself operate to stay a sale. Claims of occupancy or user, if proved, may be met, and will probably, in most cases, be met, by selling the land subject to condition or reservation. But if objections be taken to the sale on the ground that it will interfere with the due exercise of such alleged rights of occupancy or user, the question whether such objection ought to operate as a bar to a sale subject to condition or reservation, is a question for the Collector to decide under Section iv. of the Act. Collectors, however, in deciding such questions, should take care that no unnecessary obstruction is thrown in the way of the free disposal of waste lands belonging to the State, and that no such objection be allowed to stop a sale unless it be clearly shewn that the interests of the objectors will be materially and injuriously affected by the transfer of the land from the Government to a private purchaser. Collectors should also endeavour to facilitate compromise between intending purchasers and objectors of this class. The Collector will be careful, at the time of selling, to make known the rights subject to which the lot is sold, and also that the Government reserve the right of using all streams and canals for public traffic, for which purpose a tow-path, twenty feet in width, will be reserved on each side of each stream and canal, as defined in the forms of Deeds of Transfer referred to in Rule 9.

9. On payment of one-tenth of the purchase money, and of all expenses of survey, demarcation, advertisement, and sale, the purchaser shall receive a deed signed by the Collector, conveying to him the lot, in full hereditary and transferable proprietary right, free, for ever, from all demand on account of land-revenue, but subject, nevertheless, to all general taxes and local rates imposed by law, and to any



other claim whether of the Government or otherwise, that may have been or may hereafter be established in any Court of competent jurisdiction. Forms of Deeds will be found in the Appendix as follows :—

*Form D.*—For sale of Waste Lands where the consideration is paid in full at the time.

*Form E.* To be endorsed on Form D. where the grant is made before survey and the whole of the estimated purchase money is paid at once.

*Form F.*—To be endorsed on Form D. where the land has been surveyed before grant, but the whole purchase money is not paid at the time of sale.

*Form G.*—To be endorsed on Form D. where the grant is made before survey, and where the whole purchase money is not paid at once.

*Form H.*—For Redemption of land-revenue.

*Form I.*—To be endorsed on Form H. where the whole commutation money is not paid at once.

10. If, before the day of sale, a claim to proprietary or occupative right in any part of the land be preferred, the Collector shall proceed as directed in Sections ii., iii. and v., Act XXIII. of 1863. In Non-Regulation Districts where the duties of Judge as well as Collector are vested in the Deputy Commissioner, it will generally be convenient that the preliminary enquiry be carried on by the Assistant Commissioner, vested with the powers of a Deputy Collector, as the Deputy Commissioner may subsequently be required to sit as a Judge in the same case in a Court constituted under Section vii.

11. Should the sale have been deferred under Section iii. in consequence of an objection having been made, and should such objection be eventually overruled, either by an order of the Revenue Authorities which has become final under Section v., or by a decision of the Special Court, the Collector shall issue a second Notification of sale in the annexed Form B. This Notification shall be issued in the manner prescribed for the first notice by Rule 5, above, at the expense of the applicant. A Form of notice C. is annexed, intimating to a claimant or objector, as required by Section v. of the Act, that his claim or objection has been rejected by the Collector.

12. If the Collector shall consider the claim or objection to be established, and that the sale or other disposition of land should not take place, he shall stop the sale or other disposition of land as directed in Section iv. of the Act. If the application for purchase of the land be rejected, the amount deposited as cost of survey will be forfeited.

13. If the land be purchased by any person other than the applicant, the estimated cost of survey deposited by the applicant shall be returned to him.

14. On being put in possession of the lot, the purchaser shall be bound to erect as many substantial permanent boundary marks, in such a manner, and within such given time, as the Collector may think necessary. If the purchaser neglect to do so, the Collector may have it done and recover the cost by sale of the lot under the rules in force, at the time being, for the sale of estates on account of arrears of revenue due from other estates.

15. The purchaser may, if he choose, pay the whole of the purchase money when the lot is sold or the deed delivered to him. Or, if he choose, he may pay a portion, not being less than ten per cent., at the time of sale, and the remainder in instalments at any future time, not being more than ten years from the date of sale. In the latter case, simple interest, at the rate of ten per cent. a year, will be charged on the unpaid portion of the purchase money, and the whole lot will remain hypothecated as security for the full discharge of the amount, including principal and interest, and be liable to sale by order of the Collector, if the said amount be not paid within the stipulated period.

The interest due for any year or part of a year under this Rule shall be payable on or before the 15th of May, and if the amount be not paid on that date, the Collector may realize the amount by sale of the lot under the rules in force at the time being for the sale of estates on account of arrears of revenue due from other estates. Any balance of the purchase money which may not have been paid up before the 15th of May of the tenth year following that of the sale, may be realized in the same manner, as an arrear of interest outstanding on that date. The proceeds of the sale shall be applied, in the first instance, to the payment of the costs of sale, and to the satisfaction of the demand of Government. The surplus shall be payable to the late registered proprietor, or proprietors on their joint receipt.

16. If the purchaser fails to pay one tenth of the purchase money and all other expenses within three months from the day of sale, the lot will be put up to sale again, on the same conditions as before, and sold at the risk of the first purchaser, whose deposit will also be forfeited.

17. The upset price will be calculated on the whole area of the lot without any deduction on any account whatever. Ordinarily, the upset price will be two rupees eight annas an acre, but, in special cases, the Collector, with the sanction of the Commissioner, may put a higher upset price on any lot, provided that the upset price of available waste lands shall in no case exceed ten rupees an acre.

Where the Collector is of opinion, that for special reasons a higher upset price than Rs. 2-8 an acre should be put upon the lot, he will, as soon as the application is made, submit a report for the orders of the Commissioner. From Darjeeling such reports will be made to the Board. In considering the upset price to be fixed, Collectors will not overlook the value of the trees on the land applied for.

18. If it should, at any time, be found that the same land has been included in more than one lot, it shall be held to belong to the lot first sold, and all subsequent sales shall, as regards such land, become null and void. In the event of any dispute regarding the boundary of two or more adjoining lots, the Collector may, on the application of any one of the parties, re-adjust the boundaries of the lots, and his decision shall be final. The price paid by any subsequent purchaser for land thus excluded from his lot, will be refunded to him with simple interest at 10 per cent.

The sum to be refunded will be calculated on the average price paid per acre, excluding the cost of survey and advertisement.

19. All grants of waste land, already made for a term of years, under previously existing rules, in which no right of occupancy or proprietorship exists, except that of the grantee or that derived from him, will be treated for the purposes of this rule as if the land were permanently settled; and the grantees, or their representatives, may redeem the future land-revenue of such grants, or of any compact part of them, in perpetuity, for an amount equal to the present value of all future stipulated annual payments calculated at five per cent. interest, provided the said amount is not less than two rupees eight annas an acre on the whole area of which the revenue is redeemed. Tables, for use in commuting existing Sunderbans, Assam and Cachar Grants to rent-free tenures, will be found in the Appendix marked (K). The grants are treated as if they were permanently settled at the highest specified annual rate payable under the stipulations of the lease under which they are given; *viz.*, in the Sunderbans, at 2 annas a bighá, and in Assam and Cachar, at 6 annas an acre. The Tables show the actual sum payable, in any year of the currency of a grant, in order to redeem all future payments, and to convert the grant into an absolutely rent-free tenure. The sum payable will be the same, whether the commutation be made early or late in any given year of the currency of a lease; that is, assuming a lease to have been given on the 1st of March, the amount payable for redemption will be the same, whether the commutation be made on the 1st of March of any given year or on the 28th of February of the following year, or at any intermediate date. It will be at the option of grantees to pay the full amount due on the commutation at once, or in instalments under the conditions given in Rule 15. The permission to redeem accorded by these Rules, does not in any way affect the obligation of the grantees to fulfil, up to the date of commutation, the conditions on which grants of land in the Sunderbans, or in Assam and Cachar, have been made under the old Rules. Before a grantee can establish a right to redeem future payments of revenue of the whole or any part of his grant, he is bound to shew that he has complied with the conditions on which the grant was made, by having cleared the required proportion of the lands comprised in it. Local Officers are therefore not authorized to allow commutations, except in cases in which it has been ascertained that the full area required had been cleared up to the period when the lot was last subject to inspection under the terms of the lease. The Board are however vested with a discretion to show consideration to grantees who may have been prevented from clearing their lots by circumstances beyond their control, or by difficulties which could not have been foreseen; and they will be prepared, on the reports of local officers, to waive the strict fulfilment of the conditions of the grant, where the circumstances are such as would have induced them, under the old Rules, to abstain from enforcing the penalty either by total or by partial resumption.

20. All sales of waste land and all redemptions made under these rules in each Division will be reported immediately to the Board of Revenue in the form of an extract from Register No. 39 (Revenue Registers), but no sale of waste lands once made by a Collector in conformity with these rules, will be disturbed by any higher executive authority.

21. Reserves of grazing and forest land, of land for the growth of firewood near towns and stations, of building sites, parks, recreation grounds, and the like, and of land required for other special purposes, are not to be sold under these Rules without the express sanction of the Government. Lists of some of these lands have been published in the *Gazette*.

Until the list of lands to be reserved in a district be published, the Collector will reserve all forest lands, that is lands on which valuable timber is growing.

22. In Darjeeling and Cachar the Superintendents, in Assam, Chota Nagpore, and the Sonthal Pergunnahs, the Deputy Commissioners, and in the Sunderbans the Commissioner will perform the duties of Collectors under these Rules.

23. Waste Lands shall not be granted, and the redemption of the Land Revenue assessed upon such lands already granted, shall not be permitted except in accordance with these Rules.

#### FORM A.

Referred to in Rule 5.

#### NOTICE.

*Sale of Waste Lands.*

NOTICE is hereby given, that a lot of waste land, consisting\* of about \_\_\_\_\_ acres, situate in \_\_\_\_\_ Zillah \_\_\_\_\_, and bounded as shown at the foot of this Notice, having been applied for under the "Rules for the sale of unassessed Waste Lands in the Lower Provinces of Bengal," will be put up to sale by auction to the highest bidder above the upset price of Rupees \_\_\_\_\_ an acre, on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at the Office of the \_\_\_\_\_ of \_\_\_\_\_, should no objection be preferred such as to render it necessary to defer the sale under the provisions of Act XXIII. of 1863. The sale will be made in the manner, and subject to the conditions prescribed by the Rules above cited, and to the provisions of Act XXIII. of 1863.

*Dated* \_\_\_\_\_

}

A. B.,  
*Collector.*

Boundaries of the Lot.

#### FORM B.

Referred to in Rule 11.

#### NOTICE.

*Sale of Waste Lands.*

NOTICE is hereby given, that a lot of waste land, consisting\* of about \_\_\_\_\_ acres, situate in \_\_\_\_\_ Zillah \_\_\_\_\_, and bounded as shown at the foot of this Notice, has been applied for under the "Rules for the sale of unassessed lands in the Lower Provinces of Bengal." All claims and objections in bar of the sale having been finally disposed of under the provisions of Act XXIII. of 1863, the said lot will be put up to sale by auction to the highest bidder above the upset price of Rupees \_\_\_\_\_ an acre, on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at the Office of the \_\_\_\_\_ of \_\_\_\_\_, should no objection be preferred such as to render it necessary to defer the sale under the provisions of Act XXIII. of 1863. The sale will be made in the manner, and subject to the conditions, prescribed by the Rule above cited, and to the provisions of Act XXIII. of 1863.

*Dated* \_\_\_\_\_

}

A. B.,  
*Collector.*

Boundaries of the Lot.



## FORM C.

Prescribed in Rule 11.

*Notice of Collector's Order rejecting a claim or objection preferred against the sale of lands applied for, as prescribed in Section v., Act XXIII. of 1863.*

WHEREAS, you , resident of , made an objection before the against the sale of certain waste lands as described below, and whereas your claims and objections having been considered under Section ii., Act XXIII. of 1863, it has been ordered that the said lands be sold, copy of the order directing the sale is herewith delivered to you, under Section v. of the above-mentioned Act; and you are desired to take notice that, under the provisions of that Section, the said order will become final at the end of one week from the date of receipt of this notice unless within that time you give notice to the that you intend to contest the said order before the Commissioner of Revenue.

Dated

}

A. B.

Collector.

## FORM D.

Prescribed in Rule 9.

*For sale of waste lands where the consideration is paid in full at the time\*.*

THE Secretary of State for India in Council, in consideration of the sum of Rupees paid by A. B. into the hands of the of

A counterpart of this is to be executed by the purchaser on paper bearing a stamp of the value of 1 Rupee, under Clause 36 of Schedule A. annexed to Act X of 1862.

(as appears by the receipt hereon endorsed), and of such further sums, if any, to be paid by the said A. B. as, upon a survey hereinafter mentioned, shall be found to be the true value at the rate of per acre of the actual area comprised in

heirs all that Lot No. contain [comprising]] being at

this grant, doth, in virtue of all powers and authorities enabling him in that behalf, and so far as he lawfully can or may, by these presents, grant and convey unto A. B. and his of unassessed and unsurveyed waste land estimated to acres, situate and in the Province of , and bounded

[here give the boundaries]

which said waste lands are roughly delineated in the map or plan drawn on the fly-leaf hereof; and are hereafter to be surveyed and measured by persons authorised by Government in that behalf, [as the same has been surveyed and demarcated]] together with all rights of forest, pasturage, mines, fisheries, and all other the proprietary right and interest of the said Secretary of State in Council in and over the soil of the said lands

hereinbefore mentioned, (except as hereinafter excepted)†.

† Where a right of proprietorship is established the lands conveyed, must be marked out exclusive of such area, but where any limited right short of that of proprietorship is reserved it must be distinctly described in this place.

TO HAVE AND TO HOLD the said lands and premises hereby granted unto, and to the use of, the said A. B., his heirs, representatives, and assigns, for ever free from all present or future demand on account of Government land-revenue, but subject‡ [to the right of X. Y., to occupy the said lands (or "to occupy beegahs of land") situate within the limits of the said grant as delineated in the map or Plan drawn in the margin hereof, for the term of

‡ Where no limited rights whatever are reserved, the words within brackets are to be omitted altogether.

at the rent of (or "rent-free,") and also subject‡ to all general taxes, and local rates now or hereafter to be imposed by law in respect thereof, and to all claims of the Government of India, or Government of

Bengal in respect of such land, other than claims of Government land-revenue: EXCEPT AND ALWAYS RESERVED to the said Secretary of State in Council, his successors, and assigns, out of the grant hereby made, a strip of land, at least twenty feet in width, along each bank of every navigable river, or stream, (if any), which now, or at any time hereafter, shall flow within the limits of the said grant: and EXCEPT AND RESERVED ALSO to the said Secretary of State in Council, his successors, and assigns, and to all other persons, the right of freely using any such river or stream

\* If the land has been surveyed omit all the italicised portions of this Deed.

† Omit if the land is unsurveyed.

for purposes of navigation or irrigation, or the transport of timber or other property, or other purposes of general utility, and the said A. B. for himself and his heirs, representatives, and assigns, hereby covenants with the said Secretary of State in Council, his successors, and assigns, that he, the said A. B., will, within \_\_\_\_\_ months after the said survey shall have been completed as aforesaid [being put in possession]\* of the said lands, erect, at his own expense, such and so many substantial boundary marks on the lands hereby granted, as, by the \_\_\_\_\_ of the District for the time being, shall be required to be erected, and, further, that, in the event of any dispute arising regarding the boundaries of the lands hereby granted, and any adjoining lands heretofore or hereafter to be granted or sold by the said Secretary of State in Council, it shall be lawful for the \_\_\_\_\_ or other Officer exercising Revenue powers in the District for the time being, to enter on the lands hereby granted, and re-adjust the boundaries of the same and the adjoining lands aforesaid, and that the decision of the \_\_\_\_\_ or other Revenue Officer, provided that he be not below the grade of Collector, in such cases, shall be final and binding on the said A. B., his heirs, representatives, and assigns. In witness whereof C. D., Esq., at present \_\_\_\_\_ of the District of \_\_\_\_\_ by order and under authority of the Hon'ble Lieutenant-Governor of Bengal, (acting in the premises for and on behalf of the said Secretary of State in Council), and the said A. B., have hereunto set their respective hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ One Thousand Eight Hundred and Sixty .

Signed, Sealed and Delivered.

#### FORM E.

*To be endorsed on both parts of D. where the grant is made before survey and the whole of the estimated purchase money is paid at once.*

WHEREAS, on the occasion of the grant within mentioned, the exact area of the waste lands sold had not been ascertained by survey, and it was therefore agreed that the excess, if any, of the exact area, which, on a survey by the Officers of Government, should be found to exist over the estimated quantity within mentioned, should be paid for at the within rate, and, in the meantime, secured as hereinafter provided. NOW THESE PRESENTS witness that, in consideration of the premises, the said A. B. for himself, his heirs, and representatives, doth covenant with the Secretary of State for India in Council, his successors, and assigns, forthwith after the said survey shall have been completed, on demand, to pay into the treasury of the \_\_\_\_\_ of \_\_\_\_\_ the excess, if any, of the value, at the rate of \_\_\_\_\_ per acre, of the actual area found, on such survey, as aforesaid, to exist over and above the sum of Rupees \_\_\_\_\_ within-mentioned, and the said A. B. doth hereby grant and confirm to the said Secretary of State in Council, his successors, and assigns, the whole of the within-mentioned lands and premises as, and by way of, security for the payment of the money hereby covenanted to be paid. PROVIDED THAT, if default shall be made in payment thereof, according to the said covenant, it shall be lawful for the said Secretary of State in Council, his successors, or assigns, acting through the \_\_\_\_\_ of [the District in which the said lands are situate] or other authorized officer, forthwith, and without further consent of, or notice to, the said A. B., or any person claiming through him, to sell the within-mentioned lands, or any part thereof, by public auction, in one or more lots, with full power to buy in the said premises, or any part thereof, at any such sale, and to resell the same, without being responsible for loss thereby, and, for the purposes aforesaid, to make and execute all necessary instruments of sale: and no purchaser at any such sale shall be bound to see or enquire whether default in payment has been made by the said A. B., or whether any money remains due on this security; and the receipt in writing of the said \_\_\_\_\_ or other authorized officer for the purchase money of the premises sold, shall be a good discharge to the purchaser. And it is hereby agreed that the said Secretary of State in Council shall hold the proceeds of sale upon trust to pay all expenses of or incident to such sale or sales, or the exercise of the aforesaid power, and then to apply such monies in or towards satisfaction of what may be due upon the security of these presents, and afterwards to pay any surplus to the

\* Omit if the land is unsurveyed.

said A. B. In witness whereof the said A. B. has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ One Thousand Eight Hundred and Sixty \_\_\_\_\_

Signed, Sealed, and Delivered.

*N. B.*—This endorsement on the part of the deed which is signed by the Collector must bear the same stamp as a deed of mortgage securing the same amount would require.

#### FORM F.

Prescribed in Rule 9.

*To be endorsed on both parts of D. in cases where the land has been surveyed before grant and where the whole purchase-money is not paid at the time of sale, but is secured as provided by Rule 15.*

WHEREAS, on the sale of the within-mentioned waste lands, *one-tenth*\* only of the

\* As the case may be. purchase-money within mentioned was paid by the within named A. B., and it was agreed that the residue thereof should be paid by such instalments, with interest, as are hereinafter mentioned, such payments to be secured to the Secretary of State in Council as hereinafter provided. NOW THESE PRESENTS witness that, in consideration of the premises, the said A. B., for himself his heirs, representatives, and assigns, doth grant and confirm unto the said Secretary of State in Council, the within-mentioned lands, with the appurtenances and all benefit and advantage thereto belonging, to hold the same unto the said Secretary of State in Council, his successors, and assigns, by way of security for the sum of Rupees \_\_\_\_\_ being the residue of the said purchase-money; and the said A. B., for himself, his heirs, executors, administrators, and representatives, doth hereby covenant with the said Secretary of State in Council, his successors, and assigns, to pay the said residue, or sum of Rupees \_\_\_\_\_ into the treasury of the \_\_\_\_\_ of \_\_\_\_\_ in instalments such that the entire amount of the said residue, or Rupees \_\_\_\_\_ shall be so paid on or

† Here enter the tenth \_\_\_\_\_ before the 15th day of May 18† \_\_\_\_\_, and also, year from the date of the \_\_\_\_\_ on or before the 15th day of May in each year, to pay into sale. \_\_\_\_\_ the said treasury, interest, at the rate of ten per cent. per annum, on the balance of the principal sum up to that time remaining due. Provided that if default shall be made in payment of the interest falling due as aforesaid, at the time and in the manner hereinbefore appointed, the balance of the whole purchase-money of the said land, together with the interest then remaining unpaid, shall at

‡ Here enter the tenth \_\_\_\_\_ once become due and payable; and, on any sum becoming so year from the date of \_\_\_\_\_ due, or for the realization of any sum remaining due on the sale. \_\_\_\_\_ 15th day of May 18‡ \_\_\_\_\_ aforesaid, it shall be lawful for the said Secretary of State in Council, his successors or assigns acting through the

\_\_\_\_\_ of the District in which the said land is situate, or other authorized officer, forthwith and without further consent of, or notice to, the said A. B., his heirs, representatives, or assigns, to sell the within-mentioned land, or any part thereof, by public auction, in one or more lots, with full power to buy in the said premises, or any part thereof, at any such sale, and to re-sell the same, without being responsible for loss thereby, and, for the purposes aforesaid, to make and execute all necessary deeds and instruments of sale and otherwise: and no purchaser at any such sale, shall be bound to see or enquire whether default in payment has been made by the said A. B., or whether any money remains due on this security; and the receipt in writing of the said \_\_\_\_\_ or other authorized officer for the purchase-money of the premises sold shall be a good discharge to the purchaser, and it is hereby agreed that the said Secretary of State in Council, his successors, or assigns shall hold the monies to arise from any such sale as aforesaid, upon trust, in the first place, to pay all expenses in any wise incident to such sale or sales, or the exercise of the aforesaid power, and in the next place, to apply such monies in, or towards, satisfaction of what may, for the time being, be due upon the security of these presents, and then, in trust, to pay the surplus, (if any), to the said A. B., his heirs, representatives, or assigns. In witness whereof, the said A. B. has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ One Thousand Eight Hundred and Sixty \_\_\_\_\_

Signed, Sealed, and Delivered.

*N. B.*—This endorsement on the part of deed, D., which is signed by the Collector, must bear the same stamp as a deed of mortgage securing the same amount would require.



## FORM G.

*To be endorsed on both parts of Form D. in cases where the grant has not been surveyed and where the whole purchase-money is not paid at the time of sale, but is secured as provided by Rule 15.*

WHEREAS, on the occasion of the grant within-mentioned, the exact area of the

\*As the case may be. waste lands sold had not been ascertained by survey, and moreover, *One-tenth\** only of the estimated purchase-money within-mentioned was paid by the within named A. B., and it was agreed that the excess, if any, of the actual area which, on a survey by the officers of Government, should be found to exist over the estimated area within-mentioned, should be paid for at the within rate, and that the balance of purchase money should be paid by such instalments, with interest, as are hereinafter mentioned, and that the whole should be secured as hereinafter provided. NOW THESE PRESENTS witness that, in consideration of the premises, the said A. B. doth, for himself, his heirs, and representatives, covenant with the Secretary of State for India in Council, his successors, and assigns, forthwith, after the said survey shall have been completed, on demand, to pay into the treasury of the of the excess, if any, of the value at the rate of per acre of the actual area found, on such survey, as aforesaid, to exist over and above the sum of Rupees within-

\* The sum paid for estimated value less the 1st instalment paid down. mentioned and further to pay into the said treasury, the sum of Rupees\* being the remaining nine-tenths† of the estimated purchase money of the within lands, at the rate

† As the case may be. aforesaid, in instalments such that the entire amount of the said residue, or Rupees shall be so paid on or before the 15th day of May 18† and also, on or before the 15th day of May, in each intermediate year, to pay into the said

treasury, interest, at the rate of ten per cent. per annum, on the balance of the principal sum up to that time remaining due : and, in consideration of the premises, the said A. B. doth hereby grant and confirm to the said Secretary of State in Council, his successors, and assigns, the whole of the within-mentioned lands and premises as, and by way of, security for the monies hereinbefore covenanted to be paid. PROVIDED that, if default shall be made in payment of the interest falling due as aforesaid, at the time and in manner hereinbefore appointed, the balance of the whole purchase-money of the said land, together with the interest then remaining unpaid, shall at once become due and payable ; and, on any sum becoming so due or for the realization of any sum remaining due on the 15th May 18† aforesaid, or in default of payment, on demand, of the excess value after survey, over the estimated value within-mentioned, according to the aforesaid covenant, it shall be lawful for the said Secretary of State in Council, his successors, or assigns, acting through the of the district in which the said land is situate, or other authorized officer, forthwith, and without further consent of, or notice to, the said A. B., or any person claiming through him, to sell the within-mentioned land, or any part thereof, by public auction, in one or more lots, with full power to buy in the said premises, or any part thereof, at any such sale, and to resell the same, without being responsible for loss thereby, and, for the purposes aforesaid, to make and execute all necessary instruments of sale and otherwise: and no purchaser at any such sale shall be bound to see or enquire whether default in payment has been made by the said A. B., or whether any money remains due on this security ; and the receipt in writing of the said , or other authorized officer, for the purchase money of the premises sold, shall be a good discharge to the purchaser ; and it is hereby agreed that the said Secretary of State in Council shall hold the monies to arise from any such sale as aforesaid, upon trust to pay all expenses of or incident to such sale or sales, or the exercise of the aforesaid power, and then to apply such monies in, or towards, satisfaction of whatever sum may be remaining unpaid by the said A. B., in respect of the purchase of the said lands, together with interest at the rate aforesaid, and then in trust to pay the surplus, (if any), to the said A. B., his heirs, representatives, or assigns. In witness whereof the said A. B., has hereunto set his hand and seal this day of

One Thousand Eight Hundred and Sixty

Signed, Sealed and Delivered.

N. B.—The note to form F. is applicable to this endorsement.

## FORM H.

Prescribed in Rule 9.

*For redemption of land-revenue.*

THE Secretary of State for India in Council, in consideration of the sum of Rupees \_\_\_\_\_ paid by A. B. into the hands of the \_\_\_\_\_ of \_\_\_\_\_ (as appears by the receipt hereupon endorsed), doth, by these presents, acquit, release and for ever discharge, all that land consisting of \_\_\_\_\_ acres, situate and being at \_\_\_\_\_, and bounded \_\_\_\_\_ being parcel of a grant, formerly waste, heretofore made to \_\_\_\_\_, from the payment, from henceforth, of all Government land-revenue accruing, or, which, but for these presents, would have accrued, in respect of the said land hereby released, or any part thereof, and to the intent that the same land may hereafter be held by the owners thereof, for the time being, for ever freed of all Government land-revenue, but subject to all general taxes, and local rates now, or hereafter to be, imposed by law in respect thereof, and to all claims of the Government of India, or Government of Bengal in respect of such land, other than claims of Government land-revenue.

In witness whereof, C. D., Esq., \_\_\_\_\_ of the District of \_\_\_\_\_ for the time being, under authority of the Hon'ble Lieutenant-Governor of Bengal, (acting in the premises for, and on behalf of the said Secretary of State in Council), has hereunto set his hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_ One Thousand Eight Hundred and Sixty \_\_\_\_\_

Signed, Sealed and Delivered.

## FORM I.

Prescribed in Rule 9.

*To be endorsed on both parts of Form H in cases where the whole commutation-money is not paid at the time of redemption, but is secured.*

WHEREAS, on the redemption of the within mentioned Government land-revenue, one-tenth\* of the commutation or consideration-money within-mentioned, was paid by the within named A. B., and it was agreed that the residue thereof should be paid by such instalments, with interest, as are hereinafter mentioned, such payments to be secured to the Secretary of State in Council as hereinafter provided; NOW THESE PRESENTS witness that, in consideration of the premises, the said A. B. doth grant and confirm unto the said Secretary of State in Council the within-mentioned lands, with the appurtenances, and all benefit and advantages thereto belonging: to hold the same unto the said Secretary of State in Council, his successors, and assigns, by way of security for the sum of Rupees \_\_\_\_\_, being the residue of the said commutation-money, and the said A. B. for himself, his heirs, executors, administrators, and representatives doth hereby covenant with the said Secretary of State in Council, his successors and assigns, to pay the said residue or sum of Rupees \_\_\_\_\_ into the treasury of the \_\_\_\_\_ of \_\_\_\_\_ in instalments such that the entire amount of the said residue or Rupees \_\_\_\_\_ shall be so paid on or before the 15th of May 18†; and also, on or before the 15th May in each intermediate year, to pay into the said treasury interest, at the rate of 10 per cent. per annum, on the balance of the principal sum up to that time remaining due, PROVIDED that, if default shall be made in payment of the interest falling due, at the time, and in manner hereinbefore appointed, the balance then unpaid of the whole commutation-money or sum of Rupees \_\_\_\_\_, at which the said Government land-revenue was redeemed, together with the interest then remaining unpaid, shall at once become due and payable; and, on any sum becoming so due, or for the realization of any part of the purchase-money remaining due on the 15th May 18† aforesaid, it shall be lawful for the said Secretary of State in Council, his successors, or assigns, acting through the \_\_\_\_\_ of the \_\_\_\_\_

† Here name the 10th year from the date of sale.

† Name the 10th year.

District in which the said land is situate, or other authorized officer, forthwith, and without further consent of, or notice to, the said A. B., his heirs, representatives, or assigns, to sell the within-mentioned land, or any part thereof, by public auction, in one or more lots, with full power to buy in the said premises, or any part thereof, at any such sale, and to re-sell the same, without being responsible for loss thereby, and, for the purposes aforesaid, to make and execute all necessary deeds and instruments of sale and otherwise : and no purchaser, at any such sale, shall be bound to see or enquire whether default in payment has been made by the said A. B., or whether any money remains due on this security; and the receipt in writing of the said or other authorized officer for the purchase-money of the premises sold shall be a good discharge to the purchaser ; and it is hereby agreed that the said Secretary of State in Council, his successors, or assigns, shall hold the monies to arise from any such sale as aforesaid, upon trust, in the first place, to pay all expenses in any wise incident to such sale or sales, or the exercise of the aforesaid power, and in the next place, to apply such monies in, or towards, satisfaction of what may, for the time being, be due upon the security of these presents, and then, in trust to pay the surplus, (if any), to the said A. B., his heirs, representatives, or assigns. In witness whereof, the said A. B. has hereunto set his hand and seal this day of

One Thousand Eight Hundred and Sixty

Signed, Sealed, and Delivered.

*N. B.*—This endorsement on the part of Deed 9, which is signed by the Collector, must bear the same stamp as would be required for a deed of mortgage securing the amount.



## Appendix K.

Tables showing the amount to be paid for the redemption of the future land-revenue of grants of Waste Land in the Sunderbans, and in Assam, and Cachar, in any year during the currency of the Grants, according to Rule 19.

## I.

## SUNDERBANS GRANTS.

CONDITIONS.	AMOUNT TO BE PAID								
	For every rupee of permanently assessed Revenue, i. e., of the highest revenue payable in any year after the 50th.						For every bighá of Assessed Land.		
1.	2	3.	Rs.	As.	P.	4.	Rs.	As.	P.
Rent-free term, 20 years. Revenue from 21st to 30th year, $\frac{1}{2}$ anna per Bighá. Revenue from 31st to 40th year, 1 anna per Bighá. Revenue from 41st to 50th year, $1\frac{1}{2}$ anna per Bighá. Revenue from 51st in perpetuity, 2 annas per Bighá.	For the first } ten years.	6 6	6	10	8	83	0	13	4
	In the 11th year.	6'821129	6	13	2	852641	0	13	8
	" 12th "	7'162185	7	2	7	895273	0	14	4
	" 13th "	7'520295	7	8	4	940037	0	15	0
	" 14th "	7'896310	7	14	4	987039	0	15	10
	" 15th "	8'291125	8	4	8	1'036391	0	0	7
	" 16th "	8'705681	8	11	3	1'088210	1	1	5
	" 17th "	9'140966	9	2	3	1'142621	1	2	3
	" 18th "	9'598014	9	9	7	1'199752	1	3	2
	" 19th "	10'077914	10	1	3	1'259739	1	4	2
	" 20th "	10'581810	10	9	4	1'322726	1	5	2
	" 21st "	11'110901	11	1	9	1'388863	1	6	3
	" 22nd "	11'416446	11	6	8	1'427056	1	6	10
	" 23rd "	11'737268	11	11	10	1'467158	1	7	6
	" 24th "	12'074131	12	1	2	1'509266	1	8	2
	" 25th "	12'427838	12	6	10	1'553480	1	8	10
	" 26th "	12'799230	12	12	9	1'599904	1	9	7
	" 27th "	13'189191	13	3	0	1'648649	1	10	5
	" 28th "	13'598651	13	9	7	1'699831	1	11	2
	" 29th "	14'028584	14	0	5	1'753573	1	12	1
	" 30th "	14'480013	14	7	8	1'810002	1	13	0
	" 31st "	14'954014	14	15	3	1'869252	1	13	11
	" 32nd "	15'201714	15	3	3	1'900214	1	14	5
	" 33rd "	15'461800	15	7	5	1'932725	1	14	11
	" 34th "	15'734890	15	11	9	1'966861	1	15	6
	" 35th "	16'021634	16	0	4	2'002704	2	0	1
	" 36th "	16'322716	16	5	2	2'040339	2	0	8
	" 37th "	16'638852	16	10	3	2'079856	2	1	3
	" 38th "	16'970795	16	15	6	2'121347	2	1	11
	" 39th "	17'319334	17	5	1	2'164917	2	2	8
	" 40th "	17'685301	17	11	0	2'210663	2	3	4
	" 41st "	18'069566	18	1	1	2'258696	2	4	2
	" 42nd "	18'223044	18	3	7	2'277880	2	4	5
	" 43rd "	18'384197	18	6	2	2'298025	2	4	9
	" 44th "	18'553407	18	8	10	2'319176	2	5	1
	" 45th "	18'731077	18	11	8	2'341385	2	5	6
	" 46th "	18'917631	18	14	8	2'364704	2	5	10
	" 47th "	19'113512	19	1	10	2'389189	2	6	3
	" 48th "	19'319188	19	5	1	2'414898	2	6	8
	" 49th "	19'535147	19	8	7	2'441893	2	7	1
	" 50th "	19'761906	19	12	2	2'470238	2	7	6
	" 51st and } for ever. }	20	20	0	0	2'5	2	8	0

**Appendix K.—(Continued.)**  
**ASSAM AND CACHAR GRANTS.**

CONDITIONS.	AMOUNT TO BE PAID									
	For every rupee of permanently Assessed Revenue.						For every acre of Assessed Land.			
	2.	3.	Rs.	As.	P.	4.	Rs.	As.	P.	
1.										
Rent-free term, 15 years.	In the 1st year.	7-763198	7	12	3	2-911199	2	14	7	
Revenue from 16th to 25th	" 2nd "	8-151358	8	2	5	3-056760	3	0	11	
year, 3 annas per acre.	" 3rd "	8-558927	8	8	11	3-209598	3	3	4	
Revenue from 26th in per-	" 4th "	8-986872	8	15	9	3-370077	3	5	11	
petuity, 6 annas.	" 5th "	9-436216	9	7	0	3-538581	3	8	7	
	" 6th "	9-908027	9	14	6	3-715509	3	11	5	
	" 7th "	10-403428	10	6	5	3-901284	3	14	5	
	" 8th "	10-923600	10	14	9	4-096350	4	1	6	
	" 9th "	11-469780	11	7	6	4-301166	4	4	10	
	" 10th "	12-043269	12	0	8	4-516227	4	8	3	
	" 11th "	12-645432	12	10	4	4-742037	4	11	10	
	" 12th "	13-277704	13	4	5	4-979139	4	15	8	
	" 13th "	13-941589	13	15	1	5-228097	5	3	8	
	" 14th "	14-638669	14	10	3	5-489502	5	7	10	
	" 15th "	15-370602	15	15	11	5-763975	5	12	3	
	" 16th "	16-139132	16	2	3	6-052173	6	0	10	
	" 17th "	16-446089	16	7	2	6-167283	6	2	8	
	" 18th "	16-768394	16	12	4	6-288147	6	4	7	
	" 19th "	17-106814	17	1	9	6-415056	6	6	8	
	" 20th "	17-462154	17	7	5	6-548307	6	8	9	
	" 21st "	17-835261	17	13	4	6-688224	6	11	0	
	" 22nd "	18-227024	18	3	8	6-835134	6	13	4	
	" 23rd "	18-638376	18	10	3	6-989391	6	15	10	
	" 24th "	19-070295	19	1	1	7-151361	7	2	5	
	" 25th "	19-523809	19	8	5	7-321428	7	5	1	
	" 26th "									
	and for ever. }	20	20	0	0	7-5	7	8	0	

*Note applicable to both tables.*—The present value of the future payments of any grant or of a compact part of any grant, will be found by multiplying the full permanently assessed revenue of one year, by the number in column 3, opposite the year of the grant in which redemption is made; or by multiplying the assessed area of the grant or compact part thereof by the number in column 4.

## REGULATION XXXIII. OF 1793.

## EMBANKMENTS.

A REGULATION for re-enacting, with modifications, the Rules passed on the 11th February and 21st October 1791, for repairing the Embankments kept in Repair at the Public Expense, and for encouraging the digging of Tanks or Reservoirs and Water-courses, and making Embankments: PASSED by the Governor-General in Council on the 1st May 1793.

I. It being necessary that provision should be made for the annual repair of certain embankments in different parts of the country, which have been considered as public works and have been kept in repair at the expense of Government, in consequence of their great extent, and the damage to which the districts and places for the protection of which they have been constructed would be liable from inundation, in the event of their not receiving the necessary annual repairs; and there being the strongest grounds for believing that, if the embankments, reservoirs, and water-courses in the estates of individuals, which are not considered as public works, were enlarged or put into a proper state of repair, and new works of the same nature made where necessary and practicable, a sufficient portion of the crops might be preserved in seasons of drought or inundation for the subsistence of the body of the people, and consequently the recurrence of the miseries which this country has so often suffered from famine be prevented; and the Governor General in Council being therefore solicitous to encourage proprietors, farmers, and cultivators of land, to undertake these important improvements in their estates and lands, he passed certain Regulations applicable to the above considerations, on the 11th of February and 21st October 1791, which are hereby re-enacted with modifications.

II. to VII.—Rescinded by Sec. ii., Reg. VI. of 1806.

VIII.—Advances shall be made to proprietors or farmers of land, or dependent talookdars, or under-farmers or ryots, for the purpose of repairing or making embankments, or repairing, enlarging, or making tanks, reservoirs, or water-courses, under the conditions specified in the following Sections:—

IX. The applications for such advances are to be made in writing to the Collector of the zillah, and are to specify the nature and extent of the work for which they are required, the period by which it will be completed, and the amount of the advance solicited. Applications for advances. If a person applying for advances shall not be the proprietor of the lands for the benefit of which the works are to be made, he is to give security for the re-payment of the advance with interest, and also for the payment of the penalty to be exacted in the cases mentioned in Section x., and shall specify in his application the security he may have to offer. If the person making the application shall be the proprietor of the lands for the benefit of which the works are intended, he is not to be required to give security, but his lands are to be held responsible for the re-payment of the advance with interest, and for the eventual discharge of the penalty.

X. Persons receiving advances, and (if they be not the proprietors of the land) their sureties, are to bind themselves to repay the amount, at such period or periods as may be agreed upon between them and the Collector, with interest at the rate of twelve per cent. per annum, and also to pay a penalty of twenty-five per cent. on the amount advanced, in the event of the works not being completed by the stipulated period, or of the money not being applied to the purpose for which it may have been advanced. Engagement to be executed by persons receiving advances and their sureties.

XI. The Collectors, upon receipt of such written applications, are to forward them without delay to the Board of Revenue, with any remarks which they may have to offer respecting them. Applications how to be dealt with. The Board of Revenue, provided there shall appear to them no objection to the execution of the work proposed, and (in cases in which security is directed to be taken) they shall be satisfied of the sufficiency of the security offered



for the re-payment of the required advance with interest, and for the discharge of the penalty in the cases mentioned in the preceding Section, are empowered to authorize the Collector to make the required advance, upon the person applying for it, and (if he be not proprietor of the land) his surety executing the prescribed engagements.

XII. Upon the arrival of the period by which such works may have been stipulated to be completed, the Collector is to direct the Tehseeldar, or other officer of Government upon the spot, or such person as he may deem it proper to appoint, to survey the works, and to report in what manner they have been executed; and in the event of there not having been completed according to the engagement and by the stipulated period, or of the money not having been applied to the purpose for which it may have been advanced, he is to levy the penalty above directed, sending immediate information to the Board of Revenue of the exaction of it.

XIII. The Collectors are to transmit to the Board of Revenue, at such periods and in such form as they may direct, reports on the execution of the works for which advances may be made under this Regulation.

XIV. The Board of Revenue are empowered to receive applications for such advances in the first instance; and provided there shall appear to them no objection to the work proposed to be executed, and the person making the application shall give the required security and execute the prescribed deeds, to order the Collector of the zillah to comply with it.

XV. If a work for which advances may be made under this Regulation shall not be completed by the stipulated period, and the person who may have received the advances can show good cause, to the satisfaction of the Collector, for not having finished it, he is to report the circumstances to the Board of Revenue, who are empowered to allow such further time for the completion of the work as they may judge proper.

## ACT XXXII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 30th November 1855.)

### AN ACT relating to Embankments.

WHEREAS the Regulations now in force for the maintenance of embankments in the Territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

I. Regulation VI. of 1806 and Regulation XI. of 1829, so far as they relate to the said Territories, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

II. The word “embankment” in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government, or of any private person, is a public embankment within the meaning hereof.

III. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an Officer who shall be called the Superintendent of Embankments.

Superintendent may take charge of any embankment which connects public embankment, &c.

Government.

And remove private embankment endangering a public embankment.

And change the line of any public embankment or make a new embankment.

And enlarge embankment, &c. thereof.

IV. *Clause 1.*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the Officers of

*Clause 2.*—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

*Clause 3.*—He may also, when necessary, change the line of any public embankment, or make a new embankment.

*Clause 4.*—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance

V. *Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three Clauses of the next preceding Section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do. Upon the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

*Clause 2.*—The proclamation shall be published by affixing the same in the Publication of pro- Cutcherry of the Collector, the Mal Cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof. The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

*Clause 3.*—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments. If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly. If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

*Clause 4.*—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this Section, unless the same be presented within one month from the date of the order.

*Clause 5.*—Subject to the right of appeal above-mentioned, and to the orders and control of Government, every order passed under this Section shall be final, and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

VI. Whenever the Superintendent of Embankments shall hereafter cause an embankment, which any person is bound to keep up, to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person. Provided that the amount so charged shall not exceed of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

VII. *Clause 1.*—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue authorities. If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had, to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue authorities.

*Clause 2.*—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

*Clause 3.*—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties, or any of them, a person to act as arbitrator on behalf of the claimants. If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

*Clause 4.*—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator. If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglects to attend, any two arbitrators may make an award.

*Clause 5.*—If any person, on being appointed an arbitrator, shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

*Clause 6.*—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

*Clause 7.*—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

*Clause 8.*—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings,



maps, and plans, as they shall require. He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them. Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Any person giving intentionally and deliberately a false deposition, under an affirmation in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

**Clause 9.**—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. The proceedings of the arbitration shall be deposited in the Collector's Office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *prima facie* evidence thereof.

**Clause 10.**—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, renders it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

**Clause 11.**—No award passed under this Section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators; and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

**Clause 12.**—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. But nothing herein contained shall effect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

**Clause 13.**—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in Clause 1 of this Section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

**Clause 14.**—The provisions of this Section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees, or crops, which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. In all such cases the Officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees, and crops, in the manner prescribed in Section xii. of this Act.

**VIII. Clause 1.**—If any landholder, farmer, or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate. The application shall contain such

Application by landholder to have a sluice made in a public embankment.

particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half, of the cost thereof, as may be determined by Government—and as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work as may be determined as aforesaid.

*Clause 2.*—The Collector shall transmit such application to the Officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

*Clause 3.*—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense, or such portion thereof as may be determined under the provisions of Clause 1 of this Section, as the case may be; and upon such agreement being executed, shall issue a certificate to the Officer in charge of the public embankments of the district, to construct the sluice.

*IX.* Sluices constructed in any public embankment shall be opened only by, or with the permission of, the Officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Officer in charge of the public embankments of the district or from the Superintendent of Embankments.

*X.* Whenever any person is desirous that a temporary water-course shall be made through, or that a temporary road-way should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest Officer of the Embankment Department, who shall communicate the application to the Officer in charge of the public embankments of the district, and that Officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments. If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such road-way, or of making and closing or removing such water-course or dam. In any case of emergency the Officer in immediate charge of an embankment, subject to such general instructions as he may receive from the Officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary water-course to be made through such embankment.

*XI. Clause 1.*—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of Zemindars or others, shall be prepared as soon after the rains in each year as may be practicable. Copies of the specifications and estimates shall be transmitted to the Office of the Collector and may be examined by any person interested in the embankments. Notice of the receipt of the specifications and estimates shall be posted up in the Collector's Office; and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper. Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent, may appeal to the Commissioner, who, subject to the orders

of the Board of Revenue and of Government, may disallow the construction of the work.

*Clause 2.*—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of Zemindars or others, and in constructing and repairing sluices and making temporary water-courses or roadways through or over any public embankment, or executing any other work, the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the Office of the Collector, and may be there examined by any person interested. Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments. If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final. When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government Revenue.

*XII. Clause 1.*—Whenever the Superintendent of Embankments shall be of opinion, that the removal of any houses, huts, or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts, or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts, or other buildings stand, is situated.

*Clause 2.*—When such report is received, the Collector shall cause a notice, containing a general description of the houses, huts, or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts, or other buildings, to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a Jury to be appointed in the following manner.

*Clause 3.*—The Collector shall direct a Deputy Collector or a principal officer of his establishment, to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a Jury for determining the value of the houses, huts, or buildings, and, if any dispute should arise, the rights of the claimants.

*Clause 4.*—The Jury shall assess the value of each house, hut, or building separately. If in any case they differ, the value shall be assessed according to the opinion of the majority; and if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

*Clause 5.*—Having completed their proceedings, the Jury shall make their award, which shall contain a schedule of the houses, huts, and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same. The award shall be final and conclusive, and not open to question in the Civil Court. Provided always, that any person who was not present at the enquiry, or whose claim may have been



set aside by the Jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

XIII. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other Officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts, or other buildings within thirty days from the date of such notice.

XIV. If, on the expiration of the above stated period, the houses, huts, or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

XV. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut, or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without labor at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

XVI. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys, or attempts to destroy, any such embankment, or opens any sluice or water-course in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labor, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labor, or to fine, or to both.

XVII. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river, without the permission of the Officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into, or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

XVIII. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council with respect to the punishment of misdemeanors.

XIX. The provision of Section xiii.\* Regulation XX. of 1817 shall extend to any charge or information of the offences specified in Section xvi. of this Act; and Darogahs and other Police Officers shall enquire into such offences in the mode and subject to the provisions therein prescribed.

\* Section xiii. of Regulation XX. 1817 is repealed by Act XVII. of 1862.

XX. All sentences and orders passed by a Magistrate, Deputy Magistrate, or Assistant, under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Right of appeals.

XXI. In the construction of this Act, words importing the singular number only, shall include the plural, and words importing the plural number only, shall include the singular; words importing the masculine gender only, shall include females; the word "Collector" shall mean any Collector, Deputy Collector, or other Revenue Officer in independent charge of any district or portion of a district.

Interpretation.

## A FEW CIRCULARS ABOUT EMBANKMENTS.

No. 49.

TO THE COMMISSIONERS OF REVENUE, ALIPORE, SARUN, BAULEAH, AND  
MOORSHEDEABAD.

October 4, 1831.

No. 124.

MISC. DEPT.

Revised Rules for the  
superintendence of Em-  
bankments.

I AM directed by the Sudder Board of Revenue to transmit, for your information and guidance, and for communication to the Officers concerned, in your Division, the accompanying copy of the Rules regarding the repairs and construction of Embankments.

*Rules regarding the repair and construction of Embankments, proposed by the Military Board, and sanctioned by the Government, under date Sept. 20, 1831.*

I. The Superintending Engineers shall, within their respective Circles, exercise the powers heretofore vested, conjointly, in the Commissioners of Revenue and Circuit, and the Supervisor of Embankments.

II. The immediate superintendence and charge of Government Embankments shall be vested in the several Executive Officers, in whose Divisions the Bunds may be situated ; those officers being guided by the instructions they may receive from the Superintending Engineers : but the Collectors of Land Revenue and Salt Agents are expected to keep themselves fully informed of the state of the Bunds in their respective Divisions, and to forward to the Superintending Engineers such representations connected with them, as they may judge desirable.

III. It shall be the duty of Executive Officers, in charge of Embankments, to prepare estimates of repairs, immediately after the end of the rainy season, and to submit the same to the Collectors, or Salt Agents, interested, who shall proceed to verify the same, either by actual inspection, or by the report of persons qualified to judge. Having satisfied himself that the work is requisite, and that the rates appear reasonable, the Collector or Salt Agent shall certify the same in the estimate, and return it to the Executive Officer, on or before the 1st December in each year, who shall forward it to the Superintending Engineer. The Superintending Engineers, after calling for any further explanation or information that they may deem necessary, shall, after duly considering the estimates, forward them, with all practicable despatch, accompanied by such remarks as they may think proper to offer, to the Military Board ; by whom the estimates will be submitted for the final orders of Government.

IV. In cases of any difference of opinion between the Superintending Engineers and Civil Authority, the point at issue shall be referred to the decision of Government, through the Military Board.

V. The several Native Establishments shall be under the control of the Executive Officers in charge of Embankments, and subject to such revision, hereafter, as may appear expedient, with reference to the permanent establishment of Europeans and Natives already attached to their respective divisions.

VI. The control over Zemindaree Embankments is vested, generally, in the Collectors of Districts ; and whenever it shall appear to an Executive Officer that the repair of any such is essential, with reference to the completeness of any line of Government Bunds, he shall submit a full report of the circumstances to the Collector of the District, who, upon receipt of such report, shall immediately require the Zemindar, or other Proprietor, legally bound to repair the same, to execute the works, according to the specification furnished, within a given time ; and, in the event of the Zemindar's refusing or neglecting to do so, the Collector shall make the circumstance known to the Executive Officer, who shall execute the work himself.

VII. A copy of the report, prepared as above, shall be furnished to the Superintending Engineer, who shall be competent to countermand further proceedings, pending the result of the orders of the Military Board.



VIII. The Collector also shall be competent to report to the Superintending Engineer, any exceptions he may have to make to the report of the Executive Officer for eventual transmission to the Board and to Government.

IX. Bills for works executed as above will be transmitted, when passed by the Military Board and Government, to the Collectors of Districts, in order that payment may be realized from the parties concerned.

X. As soon as any works shall have been executed, the Executive Officer in charge of Embankments shall submit a completion report to the Collector, to be certified by him; and the annual reports, accompanied by the completion reports shall be submitted to the Superintending Engineer; who, after due examination, will forward them to the Military Board, to be passed in the usual manner.

XI. All plans and records connected with the Embankments, in the possession of the Commissioners of Revenue and Circuit, Collectors and salt Agents, or other authority, shall be transferred to the Military Board; and those with the present Superintendents of Embankments, to the Executive Officer by whom they may be relieved, on or before the 1st December, 1831; the Revenue Authorities retaining copies of such papers or plans, as may appear to them essential to be retained.

XII. The Superintending Engineer will be careful to apply, in due time, for such advances as he may deem necessary, for the early and economical execution of works required to be executed.

XIII. All petitions for the construction of new Bunds, or for the more effectual repairs of the old ones, or complaints regarding the same, shall be presented to the Collector of the District who shall examine into and transmit them, with his remarks, to the Superintending Engineer.

#### No. 67.

No. 472,  
MISC. DEPT.

Mode of advancing and realizing Zemindars' share of expense in construction of sluices in embankments.

TO THE COMMISSIONER OF REVENUE.

October 16, 1838.

THE annexed correspondence relative to the mode of advancing and realizing the Zemindars' share of the expense to be incurred in the construction of sluices in embankments, is circulated for the information and guidance of all Collectors.

*Letter from the Secretary, Sudder Board of Revenue, to the Secretary to the Government of Bengal.*

I am directed by the Sudder Board of Revenue to acknowledge the receipt of your letter, No. 1324, dated the 24th ultimo, giving cover to an original letter, No. 1334, from the Military Board to the address of His Honor the Deputy Governor of Bengal, and calling for a report from this Board as to whether the suggestion of the Military Board could be adopted without risk.

2. The suggestion of the Military Board has reference to the recovery of the Zemindars' share of the expense to be incurred in constructing sluices proposed to be inserted in embankments, and they recommend that, when a proper written agreement is procured and registered, the Government should advance funds to enable the Executive Officer to commence on the work, leaving it to the Collector to recover from the Zemindars their portion of the stipulated outlay.

3. The Board are of opinion that advances of the nature contemplated would fall under the provisions of Section xl., Regulation XIV. of 1793, and might be summarily recovered in the same manner as an arrear of Revenue; a stipulation to this effect should be entered in the agreement. If the Zemindars can be persuaded to execute such engagements, the Board conceive that very little risk would attend the advance of the money from the public Treasury in the first instance.

*Letter from the Secretary to Government, to the Secretary to the Sudder Board of Revenue.*

I am directed to acknowledge the receipt of your letter, No. 473, dated the 21st ultimo, and to request that you will inform the Board in reply, that His Honor the

Deputy Governor of Bengal approves of their suggestion, and desires that it may be acted upon by Collectors in communication with the Executive Officer.

2. The engagements should be taken by Collectors, and should specify that this is an advance under Section xl., Regulation XIV. of 1793, and entered as such in their accounts.

3. Authority for such advance should be obtained in the usual way through the Military Board, on application being made by the Executive Officer.

4. A copy of the Board's letter and of this reply will be furnished to the Military Board.

#### No. 47 of 1861.

I AM directed by the Board of Revenue to forward herewith, for your information and for communication to Collectors in charge of Districts where there are Embankments, copy of a Circular issued by the Government of Bengal in the Public Works Department to the Superintendents of Embankments, No 3132, dated the 15th ultimo, directing them to report fully to the Secretary to Government in the Public Works Department their proposed proceedings before taking action under the Law, as laid down in the several Clauses of the Embankment Act, and before giving notice to the Collector of the District.

#### No. 3132.

*From Lieutenant-Colonel J. P. Beadle, Offg. Secretary to the Government of Bengal in the Public Works Department, to the Superintendent of Embankments.*

P. W. DEPARTMENT.  
Agricultural,  
Dykes.

Fort William, the 15th July 1861.

SIR,

I AM directed by the Lieutenant-Governor to inform you, with reference to your charge of the Embankments within the Circle, that, before taking action as Superintendent of Embankments, under the Law as laid down in the several Clauses of Sections iv. and v. of the Embankment Act, you must report the proposed proceeding direct to the Secretary to Government, in the Public Works Department, stating fully all the reasons for the same, before giving notice to the Collector of the District, which should only be done after obtaining the consent of Government to the proceeding.

2. I have further to instruct you that, in taking proceedings under the xiith Section of the Act, you should also report direct to the Secretary in the Public Works Department whenever it is possible that the removals contemplated may involve a greater expenditure to Government than the 500 Rupees which is the ordinary limit of your authority as a Superintending Engineer.

3. The Lieutenant-Governor desires to impose no restrictions to proceedings under Section viii. of the Embankment Act, but he remarks, for your guidance, that when the proportion to be paid for the construction of a Sluice by the party applying for it is less than one half of the whole expenditure that the proportion is to be determined by Government.

4. All expenditure incurred under the authority conveyed by the Embankment Act which is paid for out of Public Works Funds is to be reported to the Chief Engineer, who is responsible that the Budget limit is not exceeded.

I have the honor to be,

SIR,

Your most obedient Servant,

J. P. BEADLE, *Lieut.-Colonel,*

*Offg. Secretary to the Government of Bengal,  
in the Public Works Department.*

#### No. 70.

*Dated 18th December 1862.*

Collectors  
require  
the

Copy of Government Order No. 5587, dated 26th ultimo, is herewith forwarded for the information of all Collectors of Revenue with a request that they will furnish to the Controller and Examiner of Public Works Accounts, the prescribed Quarterly Return of all sums recovered from the Zemindars on account of advances for Zemindaree Embankments, within fifteen days of the close of the Quarter to which it relates.

No. 5587.

FROM LIEUTENANT-COLONEL J. P. BEADLE,

*Offg. Secretary to the Government of Bengal,  
in the Public Works Department.*

TO THE OFFG. CONTROLLER AND EXAMINER OF P. W. ACCOUNTS, IN BENGAL.

*Fort William, the 26th November 1862.*

SIR,

I AM instructed, with reference to your No. 4249, dated 5th November 1862, to say that the Lieutenant-Governor does not consider that there is any necessity for the issue of special Rules in regard to the Tuccavy Accounts for Zemindaree Embankments, or that there is any necessity for altering the Law as it stands.

The Executive Engineer should head his accounts properly, stating that it is a Tuccavy Account, and recoverable from such a Collectorate.

The Collector should advise the Superintendent of Embankments quarterly of the amounts expended on the Zemindaree Embankments in his Circle, and to be recovered from Zemindars by the Superintendent through the Collector as the Law directs.

The Collector will be directed to forward quarterly to the Controller, a return of the sums recovered from the Zemindars.

The Revenue Board will be moved to issue the necessary order to the Collectors.

2. No further instructions seem to be required. The Office of Account must see that there are no unnecessary delays in the adjustment of these accounts, and as the Zemindars can only be called upon to pay the actual expenditure, there must be no averaging of rates in the Office of Account; but the Bills for Zemindaree Embankments must be *bond fide* Abstracts of the expenditure actually incurred.

I have, &amp;c.,

J. P. BEADLE, *Lieut.-Colonel, R. E.,**Offg. Secretary to the Government of Bengal,  
in the Public Works Department.*



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## CHAPTER XII.

MISCELLANEOUS. •

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## CHAPTER XII.

### REGULATION V. OF 1804.\*

*A REGULATION to provide for the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments, and in the Departments of Salt, Opium, and Customs; also to make further Provision for administering the Oath prescribed by the Statute 33rd Geo. III. cap. 52: PASSED by the Governor-General in Council on the 16th August, 1804.*

I. For the purpose of insuring a faithful, diligent, and able discharge of the important duties assigned to the native officers who are employed on the part of Government, in the several public offices of the judicial, revenue, and commercial departments, and in the departments of salt, opium, and customs, it is essential that those officers (with an exception of the naib nazirs, mirdahs, peons, and burkundazes, and similar descriptions of public servants who are nominated and removed upon such sufficient cause by their immediate superiors, under the responsibility of the latter for their good conduct) should be secured in the possession of their respective offices whilst they discharge the duties assigned to them with diligence, ability, and integrity, that the persons appointed to fill all vacancies in such offices should be selected with due regard to their characters and qualifications, and that they should not be liable to removal from their appointments without proof of their incapacity or misconduct. These objects have been in part provided for by the rules in force concerning the appointment and removal of the law officers of the Courts of Justice, the cauzy-ul-cozaat and cauzies of the towns, cities, and pergunnahs, and the native officers appointed to keep the records of the Courts of Judicature, civil and criminal, as well as the keepers of the revenue records in the several Collectorships, the whole of whom are appointed by the Governor-General in Council, and are not removable without sufficient cause established to his satisfaction. The principal native officers employed in the Police are also, under the existing Regulations, not liable to be removed from their stations without proof of incapacity or misconduct to the satisfaction of the Governor-General in Council; and the native commissioners for the trial and decision of civil causes to a small amount, who are appointed with the approbation of the Court of Sudder Dewanny Adawlut, are not removable, during the period of their commissions, without sufficient cause proved to the satisfaction of that Court. The zillah khezanchees, or native cash-keepers under the Collectors, are, in like manner, required to be appointed with the approbation of the Board of Revenue, and are declared not to be removable, except for misconduct or other sufficient cause proved to the satisfaction of that Board. But, in other instances, it is not required by the existing Regulations that the sanction of the Governor-General in Council, or the approbation of the Sudder Dewanny Adawlut and Nizamut Adawlut, or of the Boards of Revenue and Trade, be obtained to the appointment of the native officers employed on the part of Government in the judicial, revenue, and commercial departments, or in the departments of salt, opium, and customs; nor has any general provision been made for securing the continuance of such officers in their respective situations, whilst they perform the duties assigned to them with attention and fidelity. His Excellency the Most Noble the Governor-General in Council has therefore enacted the following further rules, to be in immediate force within the provinces of Bengal, Behar, and Orissa (including Cuttack), the province of Benares, and the provinces ceded by the Nawaub Vizier.

II. Such parts of Section II. Regulation XIII. 1793 (extended to Benares by Regulation XII. 1795), and of Section II. Regulation XII. 1803, for the provinces ceded by the Nawaub Vizier, as authorize the Courts of Civil and Criminal Judicature to appoint their respective native officers (excepting the naibs of the nazirs, the mirdah's and the peons,) and to remove such officers for incapacity, misconduct, or other cause that may appear to them sufficient, are hereby rescinded.

Regs. XIII. 1793 and  
XII. 1803 rescinded in  
part.

III. Such parts of Section XIII. Regulation II. 1793, and Section XIII. Regulation II. 1793 and V. 1795, as declare the appointment and dismissal of 1795 rescinded in part. native public servants on the establishments of the Collectorships (the keepers of the records and the khezanchees excepted) to be vested in the Collectors of the Revenue, are also hereby rescinded.

IV. The head ministerial native officers, who are now or may be hereafter employed in the Courts of Sudder Dewanny Adawlut and, Nizamut Adawlut, the Provincial Courts of Appeal and Circuit the Zillah and City Civil Courts, and the Courts of the Magistrates in the several zillahs and cities, the head native officers who are now or may be hereafter employed under the Secretary to the Board of Revenue or the Collectors of the Revenue, and the head native officers who are now or may be hereafter employed under the Secretary to the Board of Trade, the commercial resident or agents, the agents for the provision of salt and opium, or the Collectors of the customs, shall not be removed from their respective offices without the sanction of the Governor-General in Council.

V. Whenever the head ministerial native officers of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, of the Provincial Courts of Appeal and Circuit, of the City and Zillah Civil Courts, of the Courts of the Magistrates in the several zillahs and cities, or the principal native officers employed under the Secretaries to the Board of Revenue and Board of Trade, or the head native officers of the Collectors of the land revenue and of the customs, of the commercial residents and agents, or of the agents for the provision of salt and opium, shall be desirous of resigning their offices, the above-mentioned authorities are hereby required to receive and record such resignations in open Court or in their public cutcherries, and to transmit the same, through the channel prescribed for conducting the public correspondence, to the Governor-General in Council, for his information and orders.

VI. Whenever the authorities specified in the preceding Sections may see cause Procedure for removal for the removal of any of their head native officers, on the of head native officer. ground of misconduct, incapacity, or otherwise, they shall communicate to such officer the grounds upon which they may consider him undeserving of continuance in his station, and call upon him to state what he may have to offer in his defence. If his answer appear unsatisfactory, and they shall consequently be of opinion that he ought to be removed, a report of the circumstances of the case, with a copy and translation of the communication made to the officer, and his answer, shall be transmitted, through the prescribed channel of public correspondence, to the Governor-General in Council, who will pass such order thereupon as he may judge proper. In the event of any proceedings or documents being referred to in the reports made in such cases, a copy and translation of such parts thereof as may be material, and appear necessary for the full information of the Governor-General in Council, shall also be transmitted with the reports required. In cases, however, in which the head native officer of any of the authorities noticed in Section IV. may have been guilty of gross misconduct, such as to require his immediate suspension from the exercise of the functions of his station, the officer under whose authority he may be employed is empowered to suspend him, and, if requisite for the public business, to nominate another person, duly qualified, to act in his place, until the orders of the Governor-General in Council can be obtained upon the case.

VII. A report shall likewise be made to the Governor-General in Council without loss of time, through the channel above prescribed, whenever an actual vacancy shall occur in the situation of head native officer, to any of the authorities mentioned in Section IV. of this Regulation, from death or any other cause.

VIII. Whenever the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, or the Boards of Revenue and Trade (through whom all correspondence on this subject is in future to be conducted), shall receive any reports from the Provincial, City, or Zillah Courts, or from the Collectors of the land revenue, or from the commercial residents or agents, or the Collectors of customs, or agents for the provision of salt and opium, enclosing the resignations of their principal native officers, the Sudder Dewanny Adawlut and the Boards of Revenue and Trade shall forward the said resignations to the Governor-General in Council, with their opinion, whether any objections occur to accepting the resignations in question. In like manner, whenever

\* Report of vacancies through death, &c.

Sudder Court, &c., to state their opinions on the propriety of accepting resignations, &c.



the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, and the Boards of Revenue and Trade, shall receive any report from the authorities subject to the control of those Courts and Boards respectively, regarding the misconduct or incapacity of their head native officers, the Sudder Dewanny Adawlut and Nizamut Adawlut, and the Boards of Revenue and Trade, shall forward such reports to the Governor-General in Council (after calling for such further information as they may deem necessary), and shall state their opinion whether there appear to be sufficient grounds for the dismissal of the officers proposed to be removed. On the same principle, those authorities are to forward to the Governor-General in Council any reports which they may have received of vacancies among any of the head native officers, from the death of such officers, or from any other cause.

IX. When the head native officer of any of the authorities specified in Section IV. Nomination and appointment of persons to fill vacancies. may be removed from his station by order of the Governor-General in Council, and also whenever a vacancy may occur from death, resignation, or otherwise, in the station of head native officer to any of those authorities, the Courts of Sudder Dewanny Adawlut or Nizamut Adawlut, the Provincial Court of Appeal or Circuit, the Zillah or City Judge or Magistrate, the Board of Revenue or Collector, the Board of Trade, commercial resident or agent, the agent for the provision of salt or opium, or the Collector of customs, in whose immediate department such removal or vacancy may occur, shall nominate, through the proper channel, for the approbation of the Governor-General in Council, a person duly qualified to succeed to the station so vacated; and shall at the same time report fully any information obtained of the past employments, character, and qualifications of the proposed successor. The Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, and the Boards of Revenue and Trade, in submitting any such reports from the officers in their respective departments to the Governor-General in Council, shall add whether they are aware of any objections to the proposed appointment; and the Governor-General in Council, on the receipt of such reports, or after calling for any further information that may appear necessary, will either confirm the person nominated to fill the vacant office, or will direct that a further nomination be made for his approval.

X. The rules contained in the five preceding Sections shall be held applicable to the law officers of the several Courts of Justice, to the cauzy-ul-cozaat and cauzies of the towns, cities, and pergunnahs, to the keepers of the records of the Courts of Judicature and of the Collectorships, to the Police darogahs, and to the tehseeldars who are vested with the charge of the Police in the province of Benares and the provinces ceded by the Nawaub Vizier, in addition to the rules now in force for the appointment or removal of those officers respectively, or in amendment thereof, as far as the former rules are different from the provisions contained in the preceding Sections of this Regulation: but the tehseeldars in the provinces above-mentioned being responsibly employed in the collection of the public revenue, they shall not be liable to suspension under Section VI, except by order of the Governor-General in Council or Board of Revenue or the Collectors; and the nomination of persons to fill vacancies in the office of tehseeldar in the above provinces, under Section IX, shall be made to Government by the Collectors through the Board of Revenue.

XI. The Governor-General in Council also reserves to himself the power of ordering Sections V, VI, VII, VIII, and IX, of this Regulation to be applied to any other native officers in the judicial, revenue, or commercial departments, or in the departments of salt, opium, and customs, for whose appointment and removal he may, at any time, judge it proper to require the express sanction of the Government. In the mean time, the rules contained in the following Sections are to be considered applicable to all native officers whose appointment and removal may not have been specially reserved to the Governor-General in Council.

XII.\* The nazirs of the several Courts of Judicature, civil and criminal, shall be allowed, as heretofore, to appoint their own naibs, and the mirdahs and peons, or any similar descriptions of public servants employed under their immediate direction and control; and to fill up all vacancies which, from time to time, may occur in such appointments, subject to the approbation of the Judges

\* Partially rescinded by Clause Second, Sec. III, Reg. XX, 1817, see page 4, (Part 2.)

and Magistrates superintending the Courts to which they are attached, and to the responsibility prescribed by Section II. Regulation XIII. 1793, and Section, II. Regulation XII. 1803, for the good behaviour of the naibs, mirdahs, peons, and others appointed by them. They may also, as hitherto, remove the person so appointed by them, provided they can state sufficient cause to the satisfaction of the Judge and Magistrate, but not without his previous knowledge and sanction. The Police darogahs and the tehseeldars, who are vested with the charge of the Police, as well as the city cutwals, and other Police officers acting immediately under the Zillah and City Magistrates, shall, in like manner, and under the same responsibility, be allowed to nominate, for the approbation of the Magistrate, their own naibs, jemadars, and burkundazes, or any similar descriptions of public servants composing part of their authorized Police establishments, whenever vacancies may occur in such establishments, and to remove the persons acting under them upon such establishments, provided they can show sufficient cause to the satisfaction of the Magistrate; but not without obtaining his previous sanction.

XIII. The principle of the foregoing Section shall be equally applicable to the naib, nazirs, the mirdahs, peons, jemadars, and burkundazes, or any similar descriptions of public servants employed in the revenue and commercial departments, or in the departments of salt, opium, and customs; and shall be observed accordingly in the whole of the public offices which are now established, or may be hereafter constituted, in these departments respectively. It shall also be applied to any establishments of the descriptions specified, which may at any time be allowed by Government to the native commissioners now appointed or who may be hereafter appointed in the judicial department, and generally to all similar establishments in that department.

XIV. Any other inferior native officers forming part of the fixed establishments of the Zillah and City Courts, civil or criminal, or of any officers acting under the authority of the zillah and city Judges and Magistrates, of the Provincial Courts of Appeal and Circuit, or of any other Court or office in the judicial department, or forming part of the fixed establishments of the Collectors of the Revenue; or of any officers acting under the authority of the Collectors of the Revenue, or of any other office in the revenue department, or forming part of the fixed establishments of the commercial residents and agents, the agents for the provision of salt and opium, or the Collectors of the customs, and of any officers acting under the authority of these officers, or of any other office in the commercial department, or the departments of salt, opium, and customs (provided that the salary or other allowance of the several inferior officers herein referred to shall not amount to the sum of ten rupees per mensem), may be appointed whenever vacancies occur in the stations of such officers, and on proof of misconduct, or other sufficient cause, may be removed, without any reference to any superior authority, by the public officer on whose establishment they are entertained, to whose immediate authority they are subject, viz., by the Zillah and City Judges and Magistrates, the Provincial Courts of Appeal and Circuit, the register to the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, and the superintendent, however denominated, of any other office in the judicial department; by the Collectors of the Revenue, the Secretary to the Board of Revenue, and any other heads of office in the revenue department; by the commercial residents and agents, the agents for the provision of salt and opium, the Collectors of customs, the Secretary to the Board of Trade, and any other denominations of superintending officers in the commercial department. The whole of the officers herein described, however, are directed to record upon their proceedings the grounds upon which any native officers may be removed by them, and are required to exercise the power vested in them, in the appointment and removal of the inferior officers acting under them respectively, with due regard to the public service and the rights of individuals, by selecting proper persons to fill all vacancies in the situations of such officers, and by continuing in office the persons appointed, whether by themselves or their predecessors, whilst they discharge the duties assigned to them with diligence and integrity.

XV. The native officers who are now, or may be hereafter, employed in the several Courts of Judicature, civil and criminal, or under any public officer subject to the authority of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut; the native officers who are now or may be hereafter employed under the Collectors of the Revenue, the Secretary to the Board of Revenue, or

Principle of above Section applicable to the same descriptions of public servants in other departments.

Appointment and removal of inferior native officers on salaries below ten rupees per mensem.

Appointment and removal of native officers on salaries amounting to ten rupees per mensem or upwards.

any public officer subject to the authority of the Board of Revenue; and the native officers who are now, or may be hereafter employed, under the commercial residents and agents, the agents for the provision of salt and opium, the Collectors of the customs, the Secretary to the Board of Trade, or any public officer, subject to the authority of the Board of Trade, for whose appointment and removal no provision has been made by the preceding Sections of this Regulation, *viz.*, all native officers so employed, whose salary or other allowance may amount to ten rupees per mensem or upwards, and whose appointment and removal may not have been reserved to the Governor-General in Council, shall not be removed from their respective offices without the sanction of the Court of Sudder Dewanny Adawlut or Nizamut Adawlut, or the Board of Revenue or Trade, according to the department in which such officers may be employed.

**XVI.** Whenever an actual vacancy shall occur among the native officers attached to any of the authorities specified in the preceding Section, from death or from any other cause, such vacancy shall be immediately reported to the Court of Sudder Dewanny Adawlut or Nizamut Adawlut, or to the Board of Revenue or Board of Trade, according to the department in which the vacancy may occur. The necessary report is likewise to be furnished regarding any such officers who may be desirous of resigning their employments; which resignations are uniformly to be taken in the manner prescribed in Section V. of this Regulation. In like manner, whenever the authorities specified in the preceding Section may see cause for the removal of any of the native officers therein referred to, they shall communicate to such officer the grounds upon which they may consider him undeserving of continuation in his station, and call upon him to state what he may have to offer in his defence. If his answer appear unsatisfactory, and they shall consequently be of opinion that he ought to be removed, a report of the circumstances of the case, with a copy of the communication made to the officer, and his answer, shall be transmitted (according to the department in which he may be employed) to the Court of Sudder Dewanny Adawlut or Nizamut Adawlut, or to the Board of Revenue or Board of Trade, who will pass such order thereupon as they may judge proper. In the event of any proceedings or documents being referred to in the reports made in such cases, a copy of such parts thereof as may be material, and appear necessary for the full information of the Court of Sudder Dewanny Adawlut or Nizamut Adawlut, or the Board of Revenue or Trade, shall also be transmitted with the reports required.

**XVII.** In cases wherein any of the native officers described in Section XV. may have been guilty of gross misconduct, such as to require his immediate suspension from the exercise of the functions of his station, the officer under whose authority he may be employed is empowered to suspend him, and if requisite for the public business, to nominate another person duly qualified to act in his place, until the orders of the Superior Court or Board can be obtained upon the case. But such suspensions and nominations are to be reported, with the least possible delay, for the information and orders of the Sudder Dewanny Adawlut, or Nizamut Adawlut, or the Board of Revenue or Trade, according to the proper department.

**XVIII.** Whenever an actual vacancy shall occur in the station of any of the native officers described in Section XV. of this Regulation, from death or other cause, and whenever any vacancy shall occur by the resignation or removal of any such officer, under the sanction or orders of the Sudder Dewanny Adawlut and Nizamut Adawlut, or of the Board of Revenue or Board of Trade, the authorities before specified, in whose immediate department such removal or vacancy may occur, shall nominate, for the approbation of the Sudder Dewanny Adawlut or Nizamut Adawlut, or the Board of Revenue or Trade, a person duly qualified to succeed to the station so vacated; and shall, at the same time, report fully any information obtained of the past employments, character, and qualifications of the proposed successor. The Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, and the Boards of Revenue and Trade, on the receipt of such reports, or after calling for any further information that may appear necessary, are authorized to confirm the person nominated to fill the vacant office, or to direct that a further nomination be made for their approval.



XIX. The rules contained in the four preceding Sections shall be held applicable

Rules contained in above four Sections applicable to native commissioners and khezanchees of Collectors, tehseeldars of revenue, &c.

to the native commissioners for the trial of civil causes, and to the khezanchees or native cash-keepers of the Collectors, in addition to the rules now in force for the appointment and removal of those officers, or in amendment thereof, as far as the former rules are different from those now enacted. The provisions in those Sections are also meant to include the tehseeldars employed for the collection of the public revenue in the provinces of Bengal, Behar, and Orissa, who are accordingly to be nominated by the Collectors and approved by the Board of Revenue. It is hereby further declared, that an order of Government shall be sufficient, without a new Regulation, to extend the provisions of this Regulation to any offices now subsisting or which may be hereafter instituted, in the judicial, revenue, or commercial departments, or in the departments of salt, opium, and customs, though not within the exact denomination of the officers described in this Regulation.

XX. On receipt of this Regulation, the several authorities referred to in it,

Public officers herein specified to submit statements of present authorized establishments, and to nominate persons to fill any vacancies.

who are respectively subordinate to the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, or to the Boards of Revenue and Trade, shall transmit to those Courts and Boards a complete statement of their establishments as now authorized by Government, and of the establishments of all officers acting under them who are paid by Government; specifying the number and fixed allowances of the native officers actually employed, and the names of those whose salaries or other allowances amount to ten rupees per mensem, with the dates of their appointments. In the event of the stations of any officers of this description being now vacant, and of its being requisite for the public business to fill such vacancies, they shall, at the same time, nominate proper persons for these purpose, in conformity with Sections IX. and XVIII. of this Regulation. The statements so transmitted shall be forwarded, as received, to the civil auditor, who shall compare them with the authorized establishments, and report any deviations, through the proper channel, for the orders of the Governor-General in Council; after obtaining which, the names of the officers actually employed, and receiving the allowance specified, shall be entered in the book of civil establishments.

XXI. Any future removals and appointments of the native officers described in

Future removals and appointments to be communicated to civil auditor.

this Regulation, and receiving an allowance of ten rupees per mensem or upwards, which may be sanctioned by the Governor-General in Council or by the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, or the Boards of Revenue and Trade, shall also be communicated to the civil auditor by the register to the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, and by the secretaries to the Boards of Revenue and Trade, for the purpose of making the requisite alteration in the book of civil establishments.

XXII. The several authorities and officers referred to in this Regulation, who

Authorities specified to insert in detailed statements of establishments the names of all native officers receiving ten rupees or upwards.

may hereafter have accounts to render to the accountant-general, or to the accountants in the judicial, revenue, and commercial departments, or to the civil auditor, which, by the rules and orders now in force, or by such as may be passed in future, are or may be required to be accompanied with detailed statements of the establishments of native officers shall uniformly insert in such statements the names of the native officers actually employed, and receiving an allowance of ten rupees per mensem or upwards, as sanctioned by the Governor-General in Council, or by the Sudder Dewanny Adawlut and Nizamut Adawlut, or by the Boards of Revenue or Trade, under the provisions contained in this Regulation.

XXIII. The several officers of Government in the judicial, revenue, and

Officers of Government prohibited making alteration in fixed distribution of salaries of native officers, &c., without sanction of Government.

commercial departments, and in the departments of salt, opium, and customs, who are already restricted by their official oaths, or by the known declarations and orders of Government, from deriving any personal advantage whatever from their fixed establishments of native officers, are further hereby positively prohibited from making any alteration whatever in the distribution of the salaries of such officers, or in the number



and designation of the several descriptions of native officers, which now compose, or may hereafter compose, their authorized establishments, without the express sanction of the Governor-General in Council.

XXIV. Nothing in this Regulation shall be construed to establish a claim of inheritance to any public office whatever, or to prevent the abolition of any such office by order of the Governor-General in Council, whenever he may judge it unnecessary to continue the same for the public service.

Public offices declared not hereditary, and may be abolished.

XXV.\* By Section III. Regulation II. 1793, it is enacted, that the Collectors of the public revenue, previously to entering upon the execution of the duties of their offices, shall take the oath prescribed by Act of Parliament for servants of the Company employed in the management or collection of the revenue, before one of the Judges of the Supreme Court of Judicature. But it has, in many cases, been found inconvenient to bring the persons so employed from their stations to the presidency, for the purpose of taking the oath prescribed by the Statute 33 Geo. III. cap. 52, before one of the Judges of the Supreme Court; and by the provision made in the said Statute, such oath may be administered by any person deputed or authorized for this purpose by an order of the Governor-General in Council. It is therefore hereby declared, in modification of Section III. Regulation II. 1793, that whenever it may be requisite to administer to any person employed in the management or collection of the revenue, the oath prescribed by the sixty-first Section of the Statute aforesaid, the Governor-General in Council will determine and direct whether the same shall be taken before one of the Judges of the Supreme Court of Judicature at Calcutta, or before such other person as may be authorized by an order of Government for this purpose. It shall, however, be observed as an invariable rule whenever the oath in question may be taken before any other person than one of the Judges of the Supreme Court, to transmit the same, duly subscribed and attested, to the register to the Sudder Dewanny Adawlut, for the purpose of being recorded in that Court.

Form of oath.

XXVI. The following is the form of the oath which is to be taken by the persons employed in the collection of the public revenue.

"I, ———, do promise and swear, that I will, to the utmost of my endeavours, well and faithfully execute and discharge the duties of an officer of revenue, reposed in and committed to me by the United Company of Merchants of England trading to the East Indies; and that I will not demand, take, or accept, directly or indirectly, by myself or by any other person, for my use or on my behalf, of or from any rajah, zemindar, talookdar, polygar, farmer, renter, or ryot, or from any person paying or liable to pay any tribute, rent, or tax, to or for the use of the said United Company, any sum of money or other valuable thing, by way of gift, present, or otherwise, over and above, or besides and except the actual tribute, rent, or tax, authorized to be taken by and for the use of the said United Company; and that I will justly and truly account for, answer, and pay all the rents, duties, and other revenues and sums of money which shall come to my hands, or to the hands of any person or persons in trust for or employed by me as an officer of the revenues of the said Company, unto the said United Company. So help me God."

## REGULATION VIII. OF 1809.

*A REGULATION for modifying Parts of the Rules in force respecting the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments: PASSED by the Vice-President in Council on the 29th August, 1809.*

I. UNDER the rules prescribed by Regulation V. 1804, the confirmation of the appointment, resignation, and removal of the principal ministerial native Officers employed in the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, the

\* By Act XXI of 1837, the local Government may in certain cases dispense with any oath now required to be taken; but not with oaths taken in the course of Judicial proceedings. A written declaration to the same effect is to be substituted for the oath dispensed with.

Provincial Courts of Appeal and Circuit, the Zillah and City Civil Courts, and the Courts of the Magistrates in the several Zillahs and Cities, as well as of the principal native officers employed under the Boards of Revenue and Trade, the Collectors of the Revenue and Customs, the Commercial residents and agents, and the agents for the provision of salt and opium, is reserved to the Governor-General in Council; to whom is also reserved the confirmation of the appointment, resignation, and removal of the law officers of the several Courts of Justice; the *cauzy ul-cozaat*, and the *cauzies* of the several cities, towns, and *pergunnahs*, the keepers of the records of the Courts of Judicature and Collectorships; the Police *darogahs*, and the other principal officers of the Police. It is at the same time required by Section VI. of the Regulation above-mentioned, that whenever the authorities specified may see cause for the removal of any of the native officers in question, they shall, after communicating to such officer the grounds upon which he may be considered undeserving of continuance in his station, and calling upon him to state what he may have to offer in his defence, transmit through the prescribed channel of Public correspondence to the Governor-General in Council, a report of the circumstances of the case, with a copy and translation of the communication made to the officer, and his answer, accompanied by a copy and translation of any proceedings or documents referred to in the report, which may be material to the case, and appear necessary for the full information of the Governor-General in Council. A similar mode of proceeding is directed with respect to other descriptions of native officers, the confirmation of whose appointment, resignation, and removal is left to the Courts of *Sudder Dewanny Adawlut* and *Nizamut Adawlut*, or to the Board of Revenue or Board of Trade. The observance of these rules has been found to occasion considerable labor and occupation of time in the public offices, to the interruption of other business of importance, and it is considered that the object of them, stated in the preamble to Regulation V. 1804, may be effectually attained, with some modification of the requisition for a full report of proceedings, by transferring to the Courts of *Sudder Dewanny Adawlut* and *Nizamut Adawlut*, and the Provincial Courts of Appeal and Circuit, to the Boards of Revenue and Trade, and to the Board of Commissioners in the upper provinces, the power of confirming the appointment, resignation, and removal of the native officers specified; excepting only the law officers of the Courts of *Sudder Dewanny Adawlut* and *Nizamut Adawlut*, whose appointment and removal, from the nature of their functions, should be still reserved to Government. The local knowledge possessed by the Courts of Circuit, and the number of cases brought before them at the *zillah* and city *gaol* deliveries, in which the conduct of the Police officers falls within their observation, render it particularly expedient that those Courts should control the appointment and removal of the *cutwals*, Police *daroghas*, and other principal officers of the police. And it is necessary to declare, with respect to these and other native officers, that they will be liable to removal from the public trusts committed to them, although no specific act of criminality may be established against them, when there is sufficient reason to consider them incapable or neglectful of their prescribed duties, or in any respect unworthy of public confidence, especially with regard to the Police officers, when robberies or other public crimes may become prevalent within the local limits of their jurisdiction. The following rules are accordingly enacted by the Governor-General in Council, to be in force, as soon as promulgated, throughout the whole of the provinces immediately subject to the presidency of Fort William.

II. The rules contained in Regulation V. 1804, and of any other Regulation in force for the appointment and removal of the native officers of Government in the judicial, revenue, and commercial departments, and in the departments of salt, opium, and customs, are hereby declared subject to the several modifications and provisions contained in the present Regulation.

III. The Courts of *Sudder Dewanny Adawlut* and *Nizamut Adawlut*, the Provincial Courts of appeal and Circuit, the Boards of Revenue and Trade, and the Board of Commissioners in the western provinces, shall hereafter exercise, without reporting their proceedings for the sanction of Government, the power of appointing, removing, and accepting the resignation of the principal ministerial native officers acting under them respectively, as well as all other native officers on their respective establishments, excepting the law officers attached to the Courts of *Sudder Dewanny Adawlut* and *Nizamut*,

Adawlut, whose nomination, removal, and resignation, shall be reported as heretofore for the previous sanction of the Governor-General in Council.

IV. *First.* The Court of Sudder Dewanny Adawlut is empowered to confirm the appointment, removal, and resignation of the law officers of the Provincial, Zillah, and City Courts, and of the cauzies of cities, towns, and pergunnahs, on receiving the reports prescribed by Sections V, VI, and IX. Regulation V. 1804, with the following modification of Section VI.

*Second.* Whenever a Provincial, Zillah, or City Court may see cause for the removal of a law officer or cauzy, on the ground of any misconduct or neglect of duty, experienced in capacity, or other disqualification, such Court shall report the circumstances of the case, with its opinion on the subject to the Sudder Dewanny

Adawlut, who will pass such order on the report so made as may appear to be proper, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.

V.—[Appointment and removal of cutwals, darogahs, and other Police officers.] *Superseded by Sec. VI. Reg. XVII. 1816.*

VI. The zillah and city Magistrates shall also report to the Court of Circuit whenever they may see cause for removing a cutwal or Police darogah from one station to another, within their respective jurisdictions; and shall not make such removals without the previous sanction of the Court of Circuit, unless, in any particular instance, there may appear to be urgent reason for it; in which case they shall immediately report the same for the information and orders of the Court of Circuit.

VII.—[Provincial Courts of Appeal to confirm appointment and removal of the principal ministerial and native officers of Zillah and city Judges and Magistrates, and others.] *Superseded by the abolition of the Provincial Courts, by Reg. II, 1833.*

VIII.—*Rescinded by Sec. II. Reg. XXIII. 1814.*

IX. The provisions of this Regulation, except Clause Fifth, Section V, which is hereby declared applicable to the whole of the native officers of Government, in addition to any other specific provisions in force, are also not intended to include the native officers attached to the Courts of Justice, civil or criminal, who receive less than ten rupees per mensem, or the naibs, jemadars, burkundazes, and other subordinate Police officers, respecting whom the rules contained in Sections XII, XIII, and XIV. Regulation V. 1804, will remain in force as heretofore.

X. *First.* The rules prescribed by Sections X, XII, XIII, XIV, XV, XVI, XVII, XVIII, and XIX. Regulation V. 1804, respecting the native officers employed in the revenue and commercial departments, and in the departments of customs, salt, and opium, are also to be still considered in force, with the following modifications and additions.

*Second.* The reports directed to be made to the Board of Revenue are to be made to the Board of Commissioners in the upper provinces, by the Collectors of Revenue and Customs subordinate to the authority of the Board of Commissioners.

*Third.* The appointment and removal of the head native officers employed under the Collectors of Revenue and Customs, and the keepers of the records in the several Collectorships, instead of being reported to the Governor-General in Council, as required by Sections IV and X. Regulation V. 1804, are left to the determination of the Board of Revenue and Board of Commissioners, upon the reports of the Collectors, in like manner, the Board of Trade are empowered to determine upon the appointment and removal of the head native officers employed under the commercial residents and agents and the agents for the provision of salt or opium, upon report from those officers.

*Fourth.* In cases of proposed removals, the Collectors, commercial residents, and agents, shall proceed in conformity with Clause Second, Section IV. of the present Regulation, instead of observing the rule prescribed by Section VI. Regulation V. 1804.

Collectors, &c., how to proceed in cases of proposed removals.



*Fifth.* The Collectors of the land Revenue and Customs, the commercial residents and agents, and the agents for the provision of salt or opium, are authorized to administer an oath under the provisions of Section VI., Regulation IV. 1793, and Section V. Regulation L. 1803 (corresponding with Section VII. Regulation III. 1803, and Clause Sixth, Section XXV. Regulation VIII, 1803, for the ceded and conquered provinces), to any witnesses whom it may be necessary to examine respecting the conduct of any native officer employed under them respectively. Provided that, if any witness shall refuse to take the oath required from him, he shall be sent to the Judge of the Zillah or City Court to be confined, as prescribed by the Regulations in similar cases.

XI.—[Immediate measures to be taken on receipt of this Regulation.] *Extinct.*

XII.—[Power of Provincial Courts of Appeal and Circuit to add to or alter distribution of fixed public Establishments.] *Superseded by the abolition of the Provincial Courts by Regulation II. 1833.*

XIII. It is hereby further declared that nothing in the present Regulation shall be construed to preclude the Governor-General in Council, or the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut from ordering the removal of a native officer, upon just and sufficient ground appearing for such order. Nor is any part of this Regulation meant to prevent the exercise of the general authority vested in the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut by the Regulations in force.

XIV. The Governor-General in Council reserves to himself the power of ordering the rules contained in this Regulation to be extended to any other native officers in the service of Government to whom the same may be considered applicable, although not specifically included in the provisions of this Regulation or of Regulation V. 1804.

Saving of power of Government or Sudder Court to order removal of native officers.

## REGULATION II. OF 1813.

A REGULATION for preventing Native Officers from making use of Public Money intrusted to their care: PASSED by the Governor-General in Council on the 6th March, 1813.

I. WHEREAS the interests of Government require that khazanchies, tehseeldars and other native officers, should be restrained from making use of the public money intrusted to their care, 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.

Native officers prohibited from making use of public money intrusted to their care.

II. Khazanchies, tehseeldars, and other native officers intrusted with the charge of public money, are hereby strictly prohibited from making use of such money for their own advantage or that of any other individual.

III. Any person infringing the rule contained in the foregoing Section shall be deemed to have been guilty of a misdemeanor, and shall be punished, on conviction thereof, before a Court of Circuit, at the discretion of the said Court, under the authority vested in the Courts of Circuit by Clause Seventh, Section II. Regulation LIII, 1803, in cases liable to discretionary punishment: provided, nevertheless, that no person convicted of the offence specified in the preceding Section of this Regulation shall be sentenced by a Judge of Circuit to the punishment of stripes or to hard labor. If in any instance imprisonment for the term of seven years shall appear to the Judge of Circuit to be an inadequate punishment for the offence, he shall transmit the trial, with his sentiments thereupon, to the Court of Nizamut Adawlut, for the final sentence of that Court.

Punishment.

IV. It shall be the duty of the Board of Revenue, the Board of Commissioners, and the Board of Trade, to submit to Government a special report respecting all convictions and sentences which may take place under the provisions of the present Regulation, in order that the Governor-General in Council may have an opportunity of considering whether the guilty persons should not also be declared incapable of again serving Government in any public capacity.

Special reports of all convictions and sentences to be made to Government.



## REGULATION XXI. OF 1793.

A REGULATION for establishing in each Zillah an Office for keeping the Records in the Natives Languages which relate to the public Revenue, and prescribing Rules for the Conduct of the Keepers of the Records: PASSED by the Governor-General in Council on the 1st May, 1793.

I. The public revenue payable from estates with the proprietors of which a settlement has been or may be concluded being declared fixed in perpetuity, it becomes essential to the future security of the dues of Government and of the rights and property of individuals, that all accounts and papers regarding the decennial settlement, the allotment of the revenue on the shares of estates that may be divided, as well as all other documents in any respect relating to the public demand upon the lands, should be carefully preserved. For this purpose, and to facilitate reference to the revenue records, the following rules have been enacted.

Office. II. An office shall be established in each zillah for keeping all records and papers in the native languages which in any respect relate to the public revenue.

III. The office shall be superintended by two natives, who shall form a part of the establishment of the Collector, and shall be styled "Keepers of the revenue records in the native languages." They shall be appointed by the Governor-General in Council, and shall not be removable but for misconduct proved to his satisfaction. The office, however, is expressly declared not to be hereditary.

IV. The keepers of the records are to keep a register, in the Bengal and Register of accounts Persian languages in Bengal and Orissa, and in the Persian and papers. language in Behar, of all accounts, papers, and documents, in any respect relating to the public revenue, in a book or books which shall be paged, and each leaf of which shall be attested by the Judge of the Dewanny Adawlut of the zillah, and who shall insert in his own handwriting, on the last leaf of each book he may so attest, the number of pages contained in it. The accounts and papers now deposited in the several zillahs are to be first entered in the register, and the keepers of the records are to prepare a list of them, for that purpose, immediately upon the receipt of this Regulation.

V. The keepers of the records, or one of them, shall endorse on the back of Keepers to endorse and every paper which may be registered, the number of the attest papers. page in which it may be registered, and attest the endorsement with his or their official signature.

VI. The keepers of the records are to be careful that the accounts and other To provide against records are not destroyed by insects, damp, or otherwise, and their destruction. that they are not removed from the office of the Collector without his express orders.

VII. If any papers or records entered in the register shall be destroyed, in consequence of the neglect or any omission of the keepers of the records, or if any such records or papers shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismissal from their office.

VIII. The keepers of the records are enjoined to attend to all rules or orders To attend to all rules respecting their office. respecting the duties of their office, which may be prescribed to them by any Regulation printed and published in the manner specified in Regulation XLI, 1793, and also to any directions respecting the better keeping, preserving, or registering the accounts and other records of the zillah, which may be issued to them by the Collector, under whose superintendence they are to perform the duties of their office.

## REGULATION XV. OF 1797.\*

A REGULATION for levying certain Fees to defray the expense of the Offices for keeping the Records in the Native Languages which relate to the Public Revenue, established under Regulations XXI. 1793. and XXX. 1795: PASSED by the Governor-General in Council on the 24th November, 1797.

I. REGULATIONS XXI. 1793, and XXX. 1795, directing the appointment of keepers of the revenue records in the native languages, these officers have been nominated

\* The Regulations of 1795 quoted in this Regulation refer only to Benares and are therefore omitted. Regulation XXV. of 1793, was rescinded by Regulation. XIX of 1814, for which see Chapter IV.

accordingly; but the Governor-General in Council deeming it reasonable that the individuals, whose rights and property may derive additional security from this institution, should contribute towards defraying the expense attending it, the following rules have been enacted, to be in force in the provinces of Bengal, Behar, Orissa, and Benares, from the date of the receipt of this Regulation in the several districts respectively.

II. *First.* Fees, at the following rates, shall be levied by the Collectors of the Revenue  
 Fees to be levied on on the registry of any division or union of an estate or es-  
 registry. tates, or of lands held exempt from the payment of revenue.

*Second.* On any division of an estate, or union of estates, paying revenue to  
 Of estates paying re- Government, that may take place under Regulations XXV.  
 venue. 1793, or XXVI. 1795, at the rate of one-quarter or four  
 Government from the property included in the union or division. annas per cent. on the annual jumma of revenue payable to

*Third.* On any division of lands exempt from the payment of public revenue, or  
 Of estates exempt from any union of such lands, forming originally part of the same  
 revenue. grant, made by the proprietor or proprietors of the grant, at  
 the rate of two and a half per cent. on the amount of the  
 annual produce of the property included in the union or division.

III. *First.* Fees, at the following rates, shall be levied by the Collectors on  
 Fees on registry of the registry of any transfer of the whole or the part of an  
 transfers. estate or estates, or lands held exempt from the payment of  
 revenue, by deed of sale, or gift, or otherwise.

*Second.* If the estate shall be subject to the payment of revenue to Government,  
 Of lands paying revenue. one quarter, or four annas per cent. on the annual jumma  
 or revenue payable to Government from the property  
 transferred.

*Third.* If the lands shall be held exempt from the payment of revenue to Govern-  
 Of lands exempt from ment, two and a half per cent. on the amount of the annual  
 revenue. produce of the lands transferred.

IV. Throughout this Regulation, by the annual jumma payable to Government  
 What is to be con- is to be understood the amount of the revenue payable to  
 sidered the annual jumma Government for the year in which the division, union, or  
 payable to Govern- transfer, may be registered, according to the permanent  
 ment, &c. settlement; or the engagements of the farmers, if the lands  
 be farmed; or the estimated receipts, if no settlement of the lands shall have been  
 concluded on the part of Government, either with the proprietors or with farmers;  
 and by the annual produce of lands held exempt from the payment of revenue, is  
 to be understood the amounts of the rents received and receivable by the proprietor  
 or the possessor of the lands, on account of the year preceding the year in which  
 the division, union, or transfer, may be registered; and the person in possession of such  
 accounts shall be bound to produce them on a written requisition from the Collector,  
 and shall be subject, for non-compliance therewith, to the payment of such daily  
 fine until the accounts be produced, as the Board of Revenue may think proper to  
 impose, on a consideration of the situation and circumstances in life of the party.

V. The amount of the fees and the fines leviable under this Regulation, shall be  
 Fees and fines how to payable to the Collector on his demand; and if not discharged  
 be levied. shall be leviable by the same process as the payment of  
 arrears of revenue due to Government may be enforced.

VI. No person shall be liable under this Regulation to the payment of a greater  
 Limit of fees. sum than one hundred sicca rupees, on account of any trans-  
 fer of an estate, or part of an estate, or of lands held exempt  
 from the payment of revenue; or any division of an estate or the union of any estates,  
 or of lands held exempt from the payment of revenue; and accordingly, when the  
 fee on any such transaction would, calculating according to the rates above prescribed,  
 amount to a greater sum than one hundred sicca rupees, the excess above that sum  
 shall not be demanded or received.

VII. The fees on the division of any estate, or the union of estates paying  
 Fee prescribed by Sec. revenue to Government, leviable under Section II of this  
 II by whom to be paid. Regulation, shall be paid, on the registry of the same, by

the party or parties who are bound to pay the charges attending the division of estates, under the rules prescribed in Regulation XXV. 1793, or XXVI. 1795, according to the province in which the lands may be situated, and in the same proportions. If the property divided or united be lands held exempt from the payment of revenue, the fees shall be paid by the parties in whose names the property may be registered, in the proportion of their respective interests therein.

VIII. The fees on the transfer of landed property, by deed of sale, or gift, or Fee prescribed by Sec. otherwise, leviable under Section III shall be paid by the III. by whom to be paid. party to whom the property may be transferred, on the transfer being entered in the public registers of lands.

IX. All sums which may be received by the Collectors under this Regulation Fees to be carried to shall be carried to the account of Government, and the credit of Government. Collectors are required to grant receipts to the parties for the amount which may be paid by them respectively.

## ACT No. XIV OF 1859.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor-General on the 5th of May, 1859.)*

### AN ACT to provide for the Limitation of Suits.

WHEREAS it is expedient to amend and consolidate the laws relating to the limitation of suits; It is enacted as follows:—

Preamble.

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following, that is to say:—

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Limitation of one year.  
Pre-emption suits.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or to the reputation; to suits for damages for the infringement of copyright or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue Authorities under Regulation V. 1822 of the Madras Code—the period of one year from the time the cause of action arose.

Limitation of one year.  
Suits for damages, summary suits, &c.

3. To suits to set aside the sale of any property, moveable or immoveable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is maintainable; to suits to set aside the sale of any property, moveable or immoveable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent or other person claiming under him, to set aside the sale of any Putneedar or such other tenure sold for current arrears of rent; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed or would otherwise have become final and conclusive if no such suit had been brought.

Limitation of one year.  
Suits to set aside sales under decrees or for arrears of Government Revenue, &c.



4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Authorities for arrears of Government Revenue, or to recover any money paid under protest in satisfaction of any claim made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment as the case may be.

Limitation of one year.

Suits to set aside attachments, &c., by Revenue Authorities for arrears of Government Revenue.

may be.

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such suit is maintainable—the period of one year from the date of the final decision, award, or order in the case.

Limitation of one year.

Suits to set aside summary decisions, &c.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII, 1822, Regulation IX, 1825, and Regulation IX, 1833 of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Limitation of three years.

Suits to contest certain awards.

the case.

Limitation of three years.

Suits to recover property comprised in an order made under Clause 2, Section I, Act XVI of 1838, or Act IV of 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2, Section I, Act XVI of 1838, or Act IV of 1840,\* or any person claiming under such party, for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

8. To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits for the rents of any buildings or lands (other than summary suits before the Revenue Authorities under Regulation V, 1822 of the Madras Code)—the period of three years from the time the cause of action arose.

Limitation of three years.

Suits for goods sold by retail, suits for rent of buildings or lands, &c.

9. To suits brought to recover money lent or interest or for the breach of any contract—the period of three years from the time when the debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest or a contract in writing signed by the party to be bound thereby or by his duly authorized agent.

Limitation of three years.

Suits for money lent or interest or for breach of contract when no written contract exists.

Limitation of three years.

Suits for the same where there is a written contract which has not been registered within six months.

10. To suits brought to recover money lent or interest or for the breach of any contract in cases in which there is a written engagement or contract and in which such engagement or contract could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

Limitation of 12 years.

Suits for specialty debts and legacies.

from the time the cause of action arose.

Limitation of 12 years.

Suits for immoveable property.

the time the cause of action arose.

11. To suits in cases governed by English law upon all debts and obligations of record and specialties; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.
12. To suits for the recovery of immoveable property or of any interest in immoveable property to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.
13. To suits to enforce the right to share in any property moveable or immoveable on the ground that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any state—the period of twelve years from the death of the person

\* Act IV of 1840 is repealed by the Criminal Procedure Act, and Chapter 22 therein is substituted.



from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance as the case may be.

14. To suits by the proprietor of any land or by any person claiming under him, for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years from the time when the title of the person claiming the right to resume and assess such lands, or of some person under whom he claims first accrued. Provided that in estates permanently settled no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained if it is shown that the land has been held Lakheraj or rent-free from the time of the permanent settlement.

15. To suits against a depositary, pawnee, or mortgagee of any property moveable or immoveable for the recovery of the same—a period of thirty years if the property be moveable, and sixty years if it be immoveable, from the time of the deposit, pawn, or mortgage; or if in the meantime an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption, shall have been given in writing signed by the depositary, pawnee, or mortgagee, or some person claiming under him, from the date of such acknowledgment in writing.

Limitation of six years applicable to all suits not especially provided for.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

II. No suit against a trustee in his lifetime, and no suits against his representatives for the purpose of following in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts unless the same is instituted within the proper period of limitation according to the last preceding Section, to be computed from the decease of such trustee: provided that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Shorter periods of limitation, if prescribed by particular Acts, to prevail.

standing this Act.

IV. If, in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission: provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Proviso.

Chargeable by reason only of a written acknowledgment signed by another of them.

Computation of period of limitation in suits to recover property purchased from depositaries, pawnees, or mortgagees.

Proviso.

within the time limited

III. When, by any law now or hereafter to be in force, a shorter period of limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bond fide*, and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that, in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought by Clause 15, Section I.

Computation of period of limitation in suits in Supreme Courts by mortgagee to recover immoveable property mortgaged.

such mortgage debt.

VII. In suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

VIII. In suits for computation of period of limitation in suits between merchants for balances of accounts current.

IX. If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessory thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it, or when he first had the means of producing or compelling the production of the concealed document.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

XI. If at the time when the right to bring an action first accrues the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation unless service of a summons to appear and answer in the suit can during the absence of such defendant be made in any mode prescribed by law.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents *bonâ fide*, and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal,

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immoveable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of

balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings; such year to be reckoned as the same is reckoned in the accounts.

computation of period of limitation in suits where the cause of action is founded on fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

XI. If at the time when the right to bring an action first accrues the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation unless service of a summons to appear and answer in the suit can during the absence of such defendant be made in any mode prescribed by law.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents *bonâ fide*, and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal,

shall have been annulled for any such cause, including the time during which such appeal if any has been pending, shall be excluded from such computation.

XV. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him, shall in a suit brought to recover possession of such property be entitled to recover possession thereof notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so recovered, or any other person instituting a suit to establish his title to such property and to recover possession thereof within the period limited by this Act.

Person dispossessed of immoveable property otherwise than by due course of law, may recover possession notwithstanding any title that may be set up.

Suit for dispossession to be brought within six months.

Suit to establish title not to be affected.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief, on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Act not to interfere with equitable jurisdiction of Supreme Courts.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force.

Act not to extend to public property, nor to suits for the recovery of public claims.

XVIII. All suits that may be now pending or that shall be instituted within the period of two years from the date of the passing of this Act shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act and no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Act not to apply to suits now pending or to suits instituted within two years.

Suits afterwards instituted to be governed by this Act.

XIX. No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same, unless in the meantime such judgment, decree, or order shall have been duly revived or some part of the principal money secured by such judgment, decree, or order, or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable or his agent to the person entitled thereto or his agent; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment or the latest of such revivors, payments, or acknowledgments as the case may be: provided that for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act shall be governed by the law now in force, anything therein contained notwithstanding.

Proceedings for enforcing judgment, &c., of Supreme Courts to be taken within twelve years.

Proviso as to judgments now in force.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order, or to keep the same in force within three years next preceding the application for such execution.

Time for enforcing execution of judgment, &c., of a Civil Court not established by Royal Charter.

XXI. Nothing in the preceding Section shall apply to any judgment, decree, or order in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within three years next after the passing of this Act, which-ever shall first expire.

Preceding Section not to apply to judgments, &c., in force at the time of the passing of this Act.



**XXII.** No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority unless some proceeding shall have been taken to enforce such decision or award or to keep the same in force within one year next preceding the application for such execution.

**XXIII.** Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon or within two years next after the passing of this Act, which ever shall first expire.

**XXIV.** This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in any Non-Regulation Province or place until the same shall be extended thereto by public notification by the Governor-General in Council or by the local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any Non-Regulation Province or place by the Governor-General in Council or by the local Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

### ACT No. XIV of 1862.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 23rd April, 1862.)*

AN ACT to amend Act XIV of 1859 (to provide for the limitation of suits.)

WHEREAS it is expedient to postpone the operation of so much of Act XIV of 1859 as limits the period for the commencement of suits for the amount of bills for articles sold by retail where the cause of action arose before the passing of that Act; It is enacted as follows:—

Suits now pending or instituted before 1st January, 1865, for articles sold by retail, in cases wherein cause of action arose before the passing of Act XIV of 1859, to be tried and determined as if that Act had not been passed.

I. All suits that may now be pending or that shall be instituted before the 1st January, 1865, to recover the amount of bills for any articles sold by retail, shall, in all cases in which the cause of action arose before the passing of the said Act XIV of 1859, be tried and determined as if that Act had not been passed.



## RULES REGARDING OFFICE RECORDS, &amp;c.,

PRESCRIBED BY THE BOARD OF REVENUE, L. P.

## I. COMMISSIONER'S RECORDS.

I. Separate Registers, No. 1 and No. 2 are to be kept for letters connected with each District, and a new series of numbers is to be commenced on the 1st May in each year.

II. All letters and drafts to be tied in bundles according to the date of receipt or despatch, the latest being placed at the top, the earliest at the bottom of the bundle. A separate bundle to be made for each month of the year and for each District, and a separate bundle for letters connected with more than one District, or for such as, for special reasons, cannot conveniently be placed in the monthly bundle of any District.

III. So long as a subject is under discussion, all letters received and sent connected with that subject, to be tied up together; as soon as the subject is brought to a close, the bundle to be broken up, and each letter put in its place in the monthly bundle to which it may belong. Letters not connected with any particular subject to be put each into its place in the monthly bundle as soon as disposed of.

IV. It cannot always be immediately determined whether letters should be kept separate or placed at once in the monthly bundles; the number of separate bundles has therefore always a tendency to increase. To prevent this, once a quarter, the Uncovenanted Assistant or an intelligent writer should examine all the bundles of current business, and break up the bundles, arranging in their proper places all the letters connected with subjects disposed of.

V. A series of correspondence, containing discussions on any matter of general interest, or connected with any great case to which constant reference for a long period may be expected, may be treated as exceptional. By placing the correspondence on such subjects in the monthly bundles, trouble would be increased rather than saved. In such cases, the correspondence will be kept together in files; a register will be kept of such files in the Form No. 3. A column is provided in Registers Nos. 1 and 2 for the entry of the number of such files against each letter contained in it. The number entered in this column will immediately guide the Record-keeper to the file in which a letter is, and, if there is no number, the Record-keeper will at once know that the letter is in the monthly bundle.

VI. It must be left to the discretion of the Officer in charge of the Records to determine which are exceptional cases, but the Board desire to caution all against allowing this arrangement in separate files to become the rule, instead of the exception. At first a little searching and other trouble may be saved by having separate files, but if permitted to accumulate unnecessarily, they will, in the course of years, occasion great embarrassment.

VII. The files should be arranged on the shelves according to their dates and number on the register, and when taken out for use, should, when done with, invariably be restored to their proper places.

VIII. The fees levied for copying and searching Records, as well as the sum realized by the sale of useless papers, may be expended in keeping the Office Records in proper order. Mention must be made in the Annual Report of the amount so realized and expended, and of the purpose for which the expenditure was incurred. As in the case of Collector's records, papers should be defaced before they are sold.

IX. Commissioners are at liberty, however, if the demand for copies from their records makes the arrangement advisable, to appoint a licensed copyist under the Rules authorized for the appointment of such an Officer in a Collector's Office—(*Vide* Collector's Record Rules. XXXI. *et seq.*)

## No. 1.

*Register of Letters Received.*

1. Register Number seriatim.	2. From whom re- ceived.	3. Number and date.	4. Date of re- ceipt.	5. Subject.	6. Date and Number of reply.	7. Number of File, see paragraph 6 of Circular.	8. REMARKS.

## No. 2.

*Register of Letters Sent.*

No. seriatim.	To whom addressed.	Number and date.	Subject.	Date and Num- ber of reply.	Number of File, see paragraph 6 of Circular.	REMARKS.

## No. 3.

*Register of Cases, the Correspondence of which is kept in separate Files apart from the Monthly bundles.*

No.	Subject.	Year in which correspondence commenced.	REMARKS.

## II. COLLECTOR'S RECORDS, &amp;c.

I. In the arrangement of the Records of a District, the principle followed is to keep together, as much as possible, the papers connected with each estate, or, where the estate is extensive, with each division of an estate. As a general rule, therefore, the arrangement is by pergunnahs and by estates.

II. A separate shelf or space is set apart for each pergunnah, and the name of the pergunnah clearly and durably written on the front of the shelf or shelves, on which the records of that pergunnah may be arranged. Periodical Returns and Papers of a general nature have a separate press assigned to them.

III. All cases of every kind, whether relating to settlement, summary suits, transfer, succession, or arrears, or of whatever nature, connected with one estate, are to be kept together. Each case is to be tied up separately,\* and all the cases of one estate are to be included in one bundle, and, with each bundle, a list of the cases enclosed therein, (not the papers, but merely the cases), and the date of the year in which they occurred is, to be put. When any fresh case is added, the name and date is to be added to the list. This Rule does not apply to papers separated off for easy destruction—*Vide* Rule XVIII.

IV. Where arrangements upon these principles may be impracticable, such other arrangement as is more suited to the condition of landed property in the District, must be introduced. The object is that it should be known what papers are in the office, and where they are to be found. Uniformity, though desirable, must not be sought at an expense of time and trouble which may be saved by adapting the arrangement to the circumstances of each District.

V. To each case is to be attached a fly-leaf, on which a list of the papers of the case is to be inscribed, with a suitable heading descriptive of the nature of the case, the name of the estate and pergunnah to which it pertains, and, (if the space will admit of it), the names of the principal parties concerned.

VI. From the lists of contents of the bundles prescribed in Rule III., a register is to be kept up for each shelf or almirah, and from these again a general register of the whole contents of the Record Office must be kept up. Where the arrangement is by estates, the register will be in form No. 64 (Revenue Forms.)

VII. The minor registers of the contents of each almirah or shelf are *mutatis mutandis*, in the same form as the general register. In fact, the latter is little more than a combination of these separate registers.

VIII. All quinquennial papers, and rent-free registers, copies of title-deeds, &c., and other valuable documents, are to be kept either in a wired rack or in a separate almirah, the front and sides of which shall be furnished with wire-work, so as to admit the free circulation of air.

IX. The Survey Records, which admit of arrangement by villages, are not to be mixed up with those relating to ordinary matters connected with land-revenue, but are to have separate presses and separate registers. All pergunnah volumes, estate and village registers, and such documents as consist rather of volumes than loose sheets tied together, must have a distinct shelf, with a separate list forming an appendix to the General Survey Register. (Revenue form No. 65.) The state of the Survey Records and Maps must be specially inspected and mentioned in the Commissioner's report of his visit to the Collector's Office.

X. The business of a Collector's Office is to be divided into departments, a Mohurrir being placed at the head of each department, and held responsible for all the papers of every case in his department until it passes into the hands of the Record-keeper under Rule XIII. One Mohurrir may be in charge of more than one department.

XI. A separate press or other fit receptacle for the secure preservation of papers, is to be assigned to each department of business, the key of which is to be in the custody of the Officer in charge of the department.

\* Note.—Old records should be tied up between boards not in cloth.



XII. The Sarrishtadar is responsible that the papers daily received are daily made over to the officers in charge of the different departments, and duly filed and entered on the lists and in the books, and disposed of with due care and attention to arrangement. It is the duty of the Sarrishtadar also to see that cases required for the Collector's proceedings are duly brought forward by the officers in charge of the departments, at the times appointed, and that each case or paper is returned daily to the proper department before the office breaks up.

XIII. A book is to be kept by the officer in charge of each department, in which he is to enter every case as it is instituted. The Record of every case, as soon as a final order has been passed, and the measures necessary for due execution completed, is to be immediately made over, without reference to order of time, to the Record-keeper, and the date of transfer is to be written against the entry of the case in the department book. The Record-keeper must receive every completed case whenever tendered to him, signing the entry in evidence of his having received the case. The Sarrishtadar is responsible for these instructions being duly attended to.

XIV. Before the record of a case is made over to the Record-keeper, the papers of which it consists are to be divided into three separate files; which are to be marked with the letters A. B. and C. respectively. A. is to contain all papers which are of importance enough to be *permanently* preserved; B. is to consist of such papers as may be destroyed after twelve years, and in file C. are to be placed papers which need not be kept above two years.

XV. Each Mohurir in charge of a Department is to be supplied with a set of Stamps (A. B. and C.), and it is his duty to mark every paper with the letter of the file in which it is to be classed; and also to divide the papers of each case into the three files, before making over the record of the case to the Record-keeper.

Two fly-leaves are to be annexed to each case. On one is to be entered the description of every paper filed in the case. These entries are to be made daily by the responsible Mohurir as the papers are filed, and in the order in which they are filed. This fly-leaf must never be changed and the writing of it must not be deferred till the case is ready for transfer to the Record-room. Before being transferred, the description of each paper on it will be stamped with the letter designating the file in which it is to be placed under Rule XIV.

The second fly-leaf is to be prepared when the case is ready to be handed over to the Record-keeper; in it all the papers which have been filed in the case shall be entered, classified under their respective letters. As these fly-leaves will be permanently kept, they will at once indicate in which file any required paper is to be found, or that it has been destroyed.

XVI. It is the duty of the Record-keeper to check the classification made by the Mohurir, and not to place any case on the racks until he has satisfied himself that the papers have been correctly distributed into the three files.

XVII. Files A. and B. are to be deposited together in the place on the racks which properly belongs to the case. File C. is not to be put with Files A. and B., but a separate rack in the Record-room is to be set aside for all C. papers promiscuously.

XVIII. The arrangement of the papers on the rack assigned to C. files is not to be by pergunnahs and estates, but according to dates of decision and classes of cases thus:—

Shelf for Cases decided in January 1863, sub-divided into as many bundles, as there are classes of cases.

Sales.	Rent suits.	Mutations.	Partitions.	&c.	&c.

Shelf for Cases decided in February 1863, sub-divided into as many bundles, as there are classes of cases.

Sales.	Rent suits.	Mutations.	Partitions.	&c.	&c.

For instance, if one shelf be allotted to the cases decided in January, one bundle on that shelf will contain the C. papers in all cases of Sale; another the C. papers in all Rent Suits, and so on; there being as many bundles as there are denominations of cases. Again, within the bundles, the files of the cases will be

arranged according to the date of their decision within the month. From the shelves thus arranged, the Record-keeper and his Assistants will have no difficulty in finding any file which may be required for reference.

XIX. In January of each year, the Record-keeper will take down from the shelves all the bundles of C. papers which have become more than two year's old, and will destroy them in a mass. No further examination will be required, if the rules as to classification have been strictly adhered to.

XX. Similarly, in January of each year, the Record-keeper will, under the Collector's sanction, destroy all the B. papers which have completed their twelfth year. To get out these papers, it will be necessary to open the bundles containing them; but the Registers prescribed in Rules VI. and VII. will at once show in what bundles B. papers are to be found which have completed their twelfth year, so that no bundles need be unnecessarily taken down and opened.

XXI. It will be understood that no C. paper will be liable to be destroyed until two complete calendar years have elapsed since the decision of the case. Records will be destroyed once a year only, in January. The destruction made in January 1864 will comprise no cases which were decided later than the 31st December 1861. The same principle will be applied in calculating the twelve years for the destruction of B. papers.

XXII. The Table A. appended will be a guide to the distribution of papers into the three Classes, A., B., and C. Before any Mohurrir is entrusted with a set of letter Stamps, the Collector must be careful to satisfy himself that the Mohurrir has made himself thoroughly acquainted with this table.

XXIII. Any document, of any kind or class, which may, at any time, be ascertained by the personal inspection of the Collector to have become entirely illegible or useless from age or worms, may, with the sanction of the Commissioner, be destroyed, a memorandum of the fact signed by the Collector, being kept in its place.

XXIV. The papers of cases transferred to the Collectorate by sub-divisional Officers must be arranged according to the classification here ordered before transfer. The Record-keeper of the Chief Office, however, must see to the correctness of the classification before depositing the papers in the Record-room under the preceding Rules.

XXV. When any case is required from the Record Office for reference, the Officer of the department in which it is required is to give a note to the Record-keeper, specifying the case required. The Record is immediately to be furnished, and the note kept in the bundle. On the return of the Record, the note is to be given up and cancelled.

XXVI. It is the Commissioner's duty, when on circuit, to make a point of inspecting the state of every Collectorate Record-Room, and, where dissatisfied with it, he is to make a report for the orders of the Board of Revenue.

XXVII. Any Officer who permits the Records of his office to fall into disorder, will, under the orders of Government, be held responsible for the expenses incurred in their re-adjustment; and any functionary receiving charge of an office, the records of which may be in disorder, or so unmethodically arranged as to prevent the ready production of papers when called for, who shall fail to make a timely report of their state, will be similarly held answerable for the outlay attending the assortment of the Records.

XXVIII. Paper of an uniform and convenient size, is to be adopted for the transaction of business. The size of small foolscap seems to be more conveniently adapted for the purpose than any other: it is handy, capable of being neatly folded, and the bundles formed thereby are not only more compact and uniform, but admit of being confined above and below with thin boards cut of a required size and tied together with tape. None but properly prepared paper must on any account be employed for purposes of Record. Country paper must never be used unless it is arsenicated.

XXIX. If good paper is not procurable near at hand, Collectors are to indent on the Stationary Office for Serampore paper which is strong and useful for all purposes, and not liable to destruction by worms. This paper, or paper like it, if procurable nearer and at a cheaper rate, should be used for all important proceedings, and where arsenicated country paper is procurable, it may be used for depositions, &c.